

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
APRIL 9, 2013**

I. ROLL CALL

II. APPROVAL OF MINUTES FROM MARCH 12, 2013

III. STAFF COMMENTS AND PROCEDURES

1. CONSENT AGENDA

- A. Final Plat – Stoneshire at Chaffee Crossing, Phase I, Lots 1-60 – Mickle-Wagner-Coleman
- B. Conditional Use #7-4-13; A request by Heather Johnson, agent for Trustees of Northside Baptist Church for a Head Start Preschool located at 5011 Mussett Road.
- C. Conditional Use #8-4-13; A request by James Abby for a conditional use for a church located at 6421 Highway 271 South.
- D. Home Occupation #3-4-13; A request by Neecol & Nicholas Carbonia for an etching and awards and promotional management business located at 1208 North 41st Street.
- E. Home Occupation #4-4-13; A request by Carlos Barrientos for a lawn and tree service business located at 3625 Park Avenue.

2. Unified Development Ordinance Amendments

- 3. A request by Cary Smallwood, agent for Cancer Support House, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached located at 1412 South 34th Street. (companion item to items #4 & #5) (tabled from March)
- 4. Rezoning #3-3-13; A request by Cary Smallwood, agent for Cancer Support House, for a zone change from Transitional (T) to Residential Multi-Family Medium Density (RM-3) by Extension located at 1412 South 34th Street. (companion item to items #3 & #5)

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
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5. A request by Cary Smallwood, agent for Cancer Support House, for development plan approval for a multi-family development located at 1412 South 34th Street. (companion item to items #3 & #4) (tabled from March)
6. Rezoning #4-4-13; A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for a zone change from Unzoned to Industrial Light (I-1) by Classification located at 7300 Chad Colley Boulevard. (companion item to item #7)
7. A request by Mickle-Wagner-Coleman, agent for Fort Chaffee Redevelopment Authority, for development plan approval for a steel processing company located at 7300 Chad Colley Boulevard. (companion item to item #6)
8. Conditional Use #9-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for an amendment to a conditional use approved on January 8, 2013, for a classroom/administration addition to Woods Elementary School located at 3201 Massard Road. (companion item to item #10)
9. Appeal of Administrative Determination regarding denial of permits for Outdoor Advertising Signs located at 5700 & 7310 Rogers Avenue

RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT

10. Variance #14-4-13; A request by Michael Johnson, agent for Fort Smith Public Schools, for a variance from 200 feet to 45 feet and 125 feet driveway separation located at 3201 Massard Road. (companion item to item #8)
11. Variance #13-4-13; A request by Alvin Bradley for a variance from 25 feet to 7 feet front yard setback located at 5109 Lovett Lane. (carport)
12. Variance #15-4-13; A request by Bart Petray, agent for Sally Parker, for a variance from 25 feet to 15 feet front yard setback located at 5610 South Enid Street. (patio cover)

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
MARCH 12, 2013**

On roll call, the following Commissioners were present: Vicki Newton, Brandon Cox, Walton Maurras, Marshall Sharpe, Steve Griffin, Richard Spearman, John Huffman and Rett Howard. Commissioner Jennifer Parks was absent.

Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to approve the minutes of the February 11, 2013, Special Meeting and the February 12, 2013, regular meeting.

Ms. Brenda Andrews read the staff procedures.

1. Unified Development Ordinance Amendments

Ms. Brenda Andrews stated that the Planning Department had received a request to construct a parking lot (offsite) within a Transitional zone and currently, the code prohibits this use in the Transitional (T) and Commercial Neighborhood zones. Ms. Andrews noted that in lieu of processing an individual zoning change request, staff believes a code change allowing the uses citywide is more appropriate and agrees that allowing parking lots (offsite) as a Conditional Use within the T and C-1 zoning districts would be an appropriate amendment.

No one was present to speak in opposition to this amendment.

Chairman Griffin then called for the vote on the Unified Development Ordinance Amendment. The vote was 8 in favor and 0 opposed.

2. Final Plat – Stonebrook at Chaffee Crossing – Crafton Tull (tabled from February 2013)

Ms. Brenda Andrews noted that staff is recommending approval of this final plat and the subdivision's Declaration of Covenants, Conditions and Restrictions, subject to all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

Chairman Griffin called for the vote on the final plat. The vote was 8 in favor and 0 opposed.

- 3. A request by Rickey Shores, agent for Hisham Yasin, for development plan approval for an office, covered patio and handicap accessible restroom facility for Fort Smith Stone Company located at 3012-3022 Midland Boulevard. (companion item to item #10)**
- 10. Variance #10-3-13; A request by Rickey Shores, agent for Hisham Yasin, for a variance from 20 feet to 6 feet interior side yard setback and from 20 feet to 5.6 feet rear yard setback located at 3022 Midland. (companion item to item #3)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate the construction of an office with restrooms for an existing rock and stone sales site. Ms. Andrews noted that the applicant is proposing to enlarge an existing non-conforming structure that currently encroaches the rear yard and side yard setbacks.

Ms. Andrews stated that a neighborhood meeting was held on Thursday, February 22, 2013, at 8:00 a.m. at the applicant's site with no objections or concerns being expressed.

Mr. Gene Williams, the owner of the property located west of this property addressed the Commission. Mr. Williams stated that he wanted the Commission to be aware that he had to construct piers on his property in order to attempt to keep the semi-trucks delivering to this business from driving across his parking lot. Mr. Williams stated that he would appreciate the applicant respecting his property.

Following a discussion by the Commission, Chairman Griffin then called for the vote on these requests.

- 3. A request by Rickey Shores, agent for Hisham Yasin, for development plan approval for an office, covered patio and handicap accessible restroom facility for Fort Smith Stone Company located at 3012-3022 Midland Boulevard. (companion item to item #10)**

Chairman Griffin called for the vote on the development plan. Motion was made by Commissioner Howard, seconded by Commissioner Newton and carried unanimously to amend this request to make approval subject to the following:

- Approval is based on the site plan, landscape plan submitted (dated 2-20-13, Project No. 12-229) and elevations for the office building as submitted.
- All mechanical units shall be completely screened.
- Submittals of sign permit application for staff review for any future signs.
- All lighting shall conform to Section 27-602-5 of the Unified Development Ordinance.

- No further building additions or enlargements shall be made to the building without Planning Commission approval.
- The site shall comply with the previously approved Conditional Use Permit #13-10-12 requirements within one-year from the approval date of October 9, 2012.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 8 in favor and 0 opposed.

RECESS PLANNING COMMISSION CONVENE BOARD OF ZONING ADJUSTMENT

10. Variance #10-3-13; A request by Rickey Shores, agent for Hisham Yasin, for a variance from 20 feet to 6 feet interior side yard setback and from 20 feet to 5.6 feet rear yard setback located at 3022 Midland Boulevard. (companion item to item #3)

Chairman Griffin called for the vote on the variance request. Motion was made by Commissioner Maurras, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to the following:

- Approval is based on the site plan, landscape plan submitted (dated 2-20-13, Project No. 12-229) and elevations for the office building as submitted.
- All mechanical units shall be completely screened.
- Submittals of sign permit application for staff review for any future signs.
- All lighting shall conform to Section 27-602-5 of the Unified Development Ordinance.
- No further building additions or enlargements shall be made to the building without Planning Commission approval.
- The site shall comply with the previously approved Conditional Use Permit #13-10-12 requirements within one-year from the approval date of October 9, 2012.

Chairman Griffin then called for the vote on the variance request as amended. The vote was 8 in favor and 0 opposed.

Commissioner Maurras requested that item #11 be heard next due to the fact that the Board of Zoning Adjustment was already convened.

11. Variance #11-3-13; A request by Woodrow Anderson, Jr., for a variance from 20 square feet to 50 square feet maximum size of a sign, from pedestal or monument

type sign to pole sign and from indirect lighting to digital illumination located at 700 Lexington Avenue.

Ms. Brenda Andrews read the staff report indicating that the purpose of this variance request is to permit an existing pole sign to have a 50 square foot sign area with a digital message. Ms. Andrews stated that a neighborhood meeting was held on Tuesday, March 5, 2013, at 3:00 p.m. on site at 700 Lexington Avenue with no neighboring property owners in attendance. Ms. Andrews noted that the original sign permit for this property was issued in 1987 as a ground sign and staff has been unable to locate any records indicating when the sign was changed to a pole sign.

Mr. Woodrow Anderson and Ms. Amy Gibbons were present to speak on behalf of this request.

Mr. David Harris, 2025 South "V", was present to speak in opposition to the request. Mr. Harris stated that there is no hardship other than the applicant wanting a larger sign.

Commissioner Maurras noted a hardship by the applicant not being able to effectively communicate to citizens, i.e. flu shots available when no one else had them available.

Following a discussion by the Commission, Chairman Griffin then called for the vote on the variance request. The vote was 7 in favor and 1 opposed (Howard).

RECESS BOARD OF ZONING ADJUSTMENT RECONVENE PLANNING COMMISSION

- 4. A request by Cary Smallwood, agent for Cancer Support House, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached located at 1412 South 34th Street. (companion item to items #5 & #6)**
- 5. Rezoning #3-3-13; A request by Cary Smallwood, agent for Cancer Support House, for a zone change from Transitional (T) to Residential Multi-Family High Density (RM-4) by Classification located at 1412 South 34th Street. (companion item to items #4 & #6)**
- 6. A request by Cary Smallwood, agent for Cancer Support House, for development plan approval for a multi-family development located at 1412 South 34th Street. (companion item to items #4 & #5).**

Ms. Brenda Andrews noted that the applicant is requesting that the Planning Commission table these items until the April Planning Commission meeting in order to allow him additional time for evaluation of the site and potential improvements.

Chairman Griffin asked for a show of hands of persons in the audience who were there in opposition to this proposed development. There were 16+ in attendance who were opposed to this multi-family development.

Mr. Kevin King, Mr. Charlie Davis and Mr. David Cravens addressed the Commission with their concerns relative to traffic, safety, the proposed high density zoning classification, as well as property devaluation.

Mr. Penny Yarbrough, property manager for Oakwood Gardens, spoke in opposition to these requests citing her concerns relative to her tenants' privacy being compromised as well as her concerns that the tenants who reside in this multi-family development could attempt to utilize Oakwood Gardens' amenities.

Following a discussion by the Commission, motion was made by Commissioner Howard, seconded by Commissioner Cox and carried to table these items until the April Planning Commission meeting. Commissioner Maurras was opposed to the tabling of these requests.

- 7. A request by Travis Brisendine, agent for Edward W. Magness, for development plan approval for government offices located at 4624 Kelley Highway. (companion item to item #12)**
- 12. Variance #12-3-13; A request by Travis Brisendine, agent for Edward W. Magness, for a variance from 10 feet to 5 feet landscaping strip requirement along North 47th Street-Section 27-602-3-C and from the requirement to plant 1 tree every 50 linear feet of right-of-way frontage along Kelley Highway – Section 27-602-3-B located at 4624 Kelley Highway. (companion item to item #7)**

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to allow the remodeling of an existing 9,700 square foot building along with a 5,463 square foot addition for the development of a government office and parking lot expansion.

Mr. Travis Brisendine was present to speak on behalf of these requests.

No one was present to speak in opposition to these requests.

Chairman Griffin then called for the vote on these requests.

- 7. A request by Travis Brisendine, agent for Edward W. Magness, for development plan approval for government offices located at 4624 Kelley Highway. (companion item to item #12)**

Chairman Griffin called for the vote on the development plan. Motion was made by Commissioner Sharpe, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to construction being built in accordance with the submitted development plan.

Chairman Griffin then called for the vote on the development plan as amended. The vote was 8 in favor and 0 opposed.

**RECESS PLANNING COMMISSION
RECONVENE BOARD OF ZONING ADJUSTMENT**

- 12. Variance #12-3-13; A request by Travis Brisendine, agent for Edward W. Magness, for a variance from 10 feet to 5 feet landscaping strip requirement along North 47th Street-Section 27-602-3-C and from the requirement to plant 1 tree every 50 linear feet of right-of-way frontage along Kelley Highway – Section 27-602-3-B located at 4624 Kelley Highway. (companion item to item #7)**

Chairman Griffin called for the vote on the variance request. The vote was 8 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

- 8. Home Occupation #1-3-13; A request by Malayphone Ning Seubold for a tax preparation business located at 6911 Lookout Drive.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow the applicant to operate a tax preparation business from her residence. Ms. Andrews stated that the applicant's application indicates business will be conducted Monday through Friday from 5:00 p.m. to 9:00 p.m. and Saturday from 9:00 a.m. to 8:00 p.m. with customers coming to her residence by appointment only.

Ms. Seubold was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Chairman Griffin then called for the vote on the home occupation request. Motion was made by Commissioner Maurras, seconded by Commissioner Sharpe and carried unanimously to amend this request to make approval subject to the following:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations. No parking is allowed on the street.
- The business license cannot be transferred to another residence without a new Home Occupation Application.
- No commercial trash container will be placed at the residence.

Chairman Griffin then called for the vote on the home occupation request as amended. The vote was 8 in favor and 0 opposed.

9. Home Occupation #2-3-13; A request by Patricia Dye for a tax preparation business located at 2205 North 10th Street.

Ms. Brenda Andrews read the staff report indicating that the purpose of this request is to allow the applicant to operate a tax preparation business from her residence. Ms. Andrews stated that the applicant's application indicates business will be conducted Monday through Saturday from 12:00 p.m. to 5:00 p.m. with customers coming to the residence by appointment only.

Ms. Patricia Dye was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Chairman Griffin then called for the vote on the home occupation request. Motion was made by Commissioner Maurras, seconded by Commissioner Howard and carried unanimously to amend this request to make approval subject to the following:

- All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
- The business license cannot be transferred to another residence without a new Home Occupation Application.
- No commercial trash container will be placed at the residence.

Chairman Griffin then called for the vote on the home occupation request as amended. The vote was 8 in favor and 0 opposed.

Meeting Adjourned!

SUBDIVISION COMMENTS

April 2013

1A. **Stoneshire at Chaffee Crossing, Phase I, Lots 1-60 - Final Plat – Mickle-Wagner-Coleman**

Zoning Designation: Residential Single Family Medium/High Density (RS-3) – Lots 1-59

Land Use: Provides for medium/high density, compact single-family homes as either new or infill development

Proposed Use: Single-family dwellings

Zoning Designation: Residential Multifamily Medium Density (RM-3) - Lot 60

Land Use: Provides for medium density attached homes, including multifamily buildings in areas where such development already exists or is planned for the future.

Proposed Use: Duplex dwellings

We recommend approval of the final plat and the subdivision's Declaration of Covenants, Conditions and Restrictions. After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the county recorder.

1A-1

STONESHIRE SUBDIVISON PHASE 1

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SECTIONS PERTAINING TO COMMON AREA LANDSCAPING MAINTENANCE

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR STONESHIRE SUBDIVISION PHASE 1

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STONESHIRE SUBDIVISION PHASE 1 is made this _____ day of January, 2013, by Shire, Inc., an Arkansas Corporation (hereinafter "Developer");

WITNESSETH:

WHEREAS, Developer owns certain real property described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Developer has executed and filed with the Recorder of Deeds for Sebastian County, Arkansas a plat for the subdivision of the Property to be known as Stoneshire subdivision (the "Subdivision") which is composed, together with the Common Areas, of the following-described lots:

Lots 1 through 59 of Stoneshire Subdivision Phase 1 in the City of Fort Smith, Sebastian County, Arkansas, according to the recorded plat thereof; and

WHEREAS, Developer intends to develop the Property as a private residential subdivision and desires to provide for the orderly development of the Property by placing certain restrictions on the Property which shall be for the use and benefit of the Developer, its future grantees, successors and assigns; and

WHEREAS, the Developer desires to provide for the preservation and enhancement of value when and as the Property is improved and desires to subject the Subdivision to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Subdivision and each and every owner of any and all parts thereof; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the value and amenities in the Subdivision, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Areas (as hereinafter defined), administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, the Developer has caused or will cause to be incorporated under the laws of the State of Arkansas, The Stoneshire Property Owners' Association, Inc., an Arkansas nonprofit corporation, for the purpose of exercising the above functions and those which are more fully set out hereafter;

1A-4

2.

NOW, THEREFORE, in consideration of the foregoing recitals, Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Property, including all Lots and Common Areas as shown on the Plat (all of which are defined hereinafter), shall be, and they hereby are, restricted as to the use and otherwise in the manner hereinafter set forth and shall be subject to the covenants, conditions, easements and changed set forth below, which shall run with the land and shall be binding on all present and future owners, and shall inure to the benefit of each owner of a Lot, the Developer and the Association.

ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires; the following words and phrases when used in this Declaration shall have the following meanings:

- 1.1 "Architectural Control Committee" shall mean (i) prior to the end of the Control Period, the Developer (or its designees or assignees from time to time) and (ii) on and after the end of the Control Period, the Board (or its designees in accordance with the Bylaws).
- 1.2 "Association" shall mean and refer to the Stoneshire Property Owners' Association, its successors and assigns.
- 1.3 "Board" shall mean the Board of Directors of the Association.
- 1.4 "Builder" shall mean any builder, contractor, investor, or other person or entity's who purchases a Lot for the purpose of constructing improvements thereon for immediate resale, excluding the Developer.
- 1.5 "Common Area" shall mean (i) private street right-of-ways, (ii) private streets and street islands, (iii) gateways, entrances, monuments and other ornamental areas and related utilities, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street shown on the Plat, and any easements related thereto, and (iv) all other property, including any and all green space, parks, improvements, pools, fences or other structures within the designated Common Area, which are intended for the use and benefit of all the Owners, as may be designated or shown on the Plat or any amendment thereto.
- 1.6 "Control Period" shall mean that period of time during which Developer controls issues related to the Subdivision, including, without limitation the Architectural Control Committee and the operation of the Association. The duration of the Control Period will be from the date this declaration is recorded for a maximum period not to exceed the earliest of:

trailers, boats and watercraft which shall be deemed incorporated herein by reference and as effective and binding as set forth expressly herein.

5.7 Inoperative Vehicles. No vehicle, bus, tractor, or other conveyance or rig, other than a lawn grass apparatus, shall be left inoperative on any lot for a period of more than 3 days.

5.8 Sod & Landscaping. All lawns must be sodded by builder (front, back & sides) with Bermuda grass or other grass specifically approved by the Architectural Control Committee prior to occupancy. All homes must be professionally landscaped by builder prior to occupancy. Builder is required to plant a 2 inch in diameter Red Maple Tree, or other such tree approved by the Architectural Control Committee, in front lawn prior to occupancy. If weather conditions don't allow this to be done prior to occupancy then builder will perform this task in a timely manner.

5.9 Common Area Lawns and Plantings. Developer or the Association shall have the right and responsibility at any time, to plant, replace, maintain, and cultivate shrubs, trees, grass, and plantings within the Common Areas and on such easements as may be granted to or reserved by the Developer or the Association over an across each Lot. No Owner or other Person shall remove, alter, injure or interfere in any way with such shrubs, trees, grass and plantings without the prior approval of the Developer or the Board. The Developer or the Association shall have the right to enter any Lot at any reasonable time, for the purpose of maintaining, placing or replacing such shrubs, trees, grass and plantings.

5.10 Nuisances. (a) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or noxious fumes shall be permitted to emanate therefrom so as to render any Lot, or portion thereof, unsanitary, unsightly, offensive or detrimental to any other Lot or its occupants. Without limiting the generality of the foregoing, not exterior speakers, excessive exterior lights, horns, whistles, bells or other sound devices, except those designated solely for security purposes, shall be used, placed or located on any Lot. The Board in its sole discretion shall have the right to determine whether any of the foregoing conditions or circumstances not specifically described herein constitutes a nuisance to any other Lot or the Subdivision and may require the removal or remediation of such condition. Any such Board decision shall be conclusive.

(b) Grass, trees, and various vegetation shall be kept neatly cut and maintained. Lawns shall not be allowed to exceed six (6) inches from the ground surface. Fences or other outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the Association may perform, or have performed, the necessary action to remedy

Plans and Specifications are technically correct from an architectural or engineering perspective or comply with applicable governmental requirements.

6.4 **Restrictions on Builders.** The Developer reserves the right to implement and enforce such rules, regulations and policies as may be reasonable and necessary during the development stage of the Subdivision regarding the original construction of improvements within the Subdivision. Any Builder constructing improvements within the project shall be bound by such rules, regulations and policies, including, without limitation, the following:

(a) Plans and exterior specifications must be approved and signed by developer or architectural committee prior to any construction on any Lot.

(b) Builder shall prevent its employees, agents, subcontractors and all others under its control from parking on a portion of the Lot not specifically designed for parking (e.g. gravel driveway). Unless Builder has constructed an appropriate gravel driveway or approach, Builder and its employees, agents, subcontractors and others under its control shall park only on the paved roadway adjoining the Lot on which Builder is constructing the residence.

(c) Builder shall be responsible for constructing sidewalks pursuant to the City of Fort Smith codes and regulations in effect at the time of the certificate of occupancy.

ARTICLE VII PERMITTED USE AND RESTRICTIONS AS TO COMMON AREAS

7.1 **Maintenance by Association.** The Board of the Association may, at any time, as to any Common Area owned, leased or otherwise controlled by it, take the following actions without any approval of the Owners being required.

(a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area in accordance with (1) the last plans thereof approved by the Board of Directors, (2) the original plans for the improvements, or (3) if neither of the foregoing is applicable and if such improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such improvement as same existed.

(b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a private road, street, walk, driveway, or parking area.

(c) Replace injured and diseased trees or other vegetation in any such area, and Plant trees, shrubs and ground cover to the extent that the Board deems necessary for the Conservation of water and soil and for aesthetic purposes.

(d) Place and maintain upon any such area such signs as the Board of Directors may deem appropriate for the proper identification, use and regulation thereof.

(e) Do all such other and further acts which the Board of Directors deems necessary to preserve and protect the property and the beauty thereof, in accordance with the general purposes specified in this Declaration.

(f) The Board shall be the sole judge as to the appropriate maintenance of all grounds within and improvements upon the Common Area, including common area fences.

7.2 **Damage or Destruction of Common Area by Owners.** In the event any Common Area is willfully or maliciously damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a workmanlike manner in conformance with the original plans and specifications for the area involved or as the area may have been modified or altered subsequently by the Association. The cost for such repairs shall be paid by said Owner, upon demand, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

ARTICLE VIII STONESHIRE PROPERTY OWNERS' ASSOCIATION

8.1 **Organization.** (a) The Association shall be a not-for-profit corporation organized and existing under the not-for-profit corporation law of the State of Arkansas, charged with the duties and invested with the powers prescribed by law and set forth in its Articles of Incorporation, Bylaws, and this Declaration with any Supplemental Declarations. Neither the Articles nor the Bylaws shall, for any reason, be amended, or otherwise changed or interpreted so as to be inconsistent with this Declaration or any amendments thereto.

(b) The affairs of the Association shall be conducted by a Board of Directors and such Officers as the Directors may elect or appoint, in accordance with the Articles of Incorporation and the Bylaws.

8.2 **Powers and Duties of the Association.** The Association shall have the power and obligation to provide for the maintenance, repair, replacement, administration, insuring and operation of the Subdivision and Common Areas as herein provided and as provided in the Bylaws.

8.3 **Rules.** By majority vote of the Board, the Association may from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations covering the use of any Common Area by any Owner, by the family of such Owner, or by any

Conditional Use

Memo

To: City Planning Commission

From: Planning Staff

Date: March 27, 2013

Re: Conditional Use #7-4-13 - A request by Heather Johnson, agent, for Steve Harrelson for Planning Commission consideration of a Conditional Use request for a head start preschool located at 5011 Mussett Road

LOT LOCATION AND SIZE

The subject property is on the west side of Mussett Road between Carrizo Street and Santa Fe Street. The tract contains an approximate area of 0.9 acres with 160 feet of street frontage along Mussett Street.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

1B-1

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet
(1+1)

Maximum Height - 40 feet

Maximum Density – 20 Dwelling Units/Acre
65%

Maximum Lot Coverage -

Minimum Lot Width at Building Line – 60 feet

Minimum Street Frontage – 20 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 7.5 feet

Rear Yard Setback - 10 feet

Side/Rear adjacent to RS district/development – 30 feet

Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Multifamily Medium Density (RM-3) and is developed as a parking lot.

The area to the east is zoned Residential Multifamily Medium Density (RM-3) is developed as a single family residence.

The area to the south is zoned Residential Single Family Medium Density (RS-2) and is developed as a single family residence.

The area to the west is zoned Residential Multifamily Medium Density (RM-3) and is undeveloped.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* classifies the site as Public Institutional. This classification is to provide for needed community services of both a public and quasi-public nature. Approval of the Conditional Use will not conflict with the goals and objectives of the *Master Land Use Plan*.

PROPOSED CONDITIONAL USE

The approval of this Conditional Use will allow a head start preschool for 40 children, ages 3-5 to operate in the existing Northside Baptist Church at 5011 Mussett Road. The project will include the installation of an 89' x 22' fenced playground area and a 10' x 20' portable storage building at the rear of the property.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – All vehicular access to the site will be through the existing two (2) driveways on Mussett Road. Parents bringing children to school will enter the site utilizing the southerly driveway and exit the site from the northerly driveway.

Easement/utilities – No easements are required for this project.

Drainage – No drainage concerns have been noted for this project.

Right-of-way dedication – No additional right-of-way is required.

Multi-Use bike path – No bikeway dedication is required.

Landscaping – No new landscaping is proposed or required.

Parking – The site will provide 25 parking spaces and will meet the minimum parking spaces for the head start school. The church also has an existing parking agreement to utilize the parking lot located to the north in the event that additional parking is needed for special events during the day.

Signage – No new signage is noted on plans. Any new signage will require the submittal of a separate sign permit application.

Lighting – No additional exterior lighting is proposed. If any future lighting is planned, it must comply with Section 27-602-5 Commercial and Outdoor Lighting requirements.

Setbacks – The project does not involve any new construction other than the installation of a fenced playground area and portable storage building at the rear of the site. The playground area complies with setbacks for the RM-3 zoning district.

Architectural features – There is no new construction proposed with this project.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Monday, March 25, 2013 at 5011 Mussett Road. Four surrounding property owners attended the meeting. No concerns were expressed regarding the proposed school.

1B-3

Staff recommends approval of the request with the following comments:

1. No on-street parking shall be permitted.
2. Submittal of a sign permit application for staff review of any new signage.
3. Any future exterior lighting shall comply with UDO Section 27-602-5 regarding Commercial and Outdoor Lighting Requirements.

Conditional Use # 7-4-13

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Trustees of Northside Baptist

Name of Authorized Agent (if applicable) Heather Johnson (HSCFS)

Legal Description of property included in the conditional use request:

Newton Subdivision, Lot 2

Street Address of Property:

5011 Mussett Rd. Int Smith AR 72904

Existing Zoning Classification:

RM-3

Proposed Zoning Classification (if applicable):

N/A

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

Head Start Preschool, 3-5 ages 40 children

What amenities are proposed such as landscaping and screening?

fencing around playground

Heather Johnson
Owner or Agent Name (please print)

302 Pointer Trail W
Owner or Agent Mailing Address
Van Buren, AR 72956

479 474 9378
Owner or Agent Phone Number

Signed:

Owner
Or
Heather Johnson
Agent

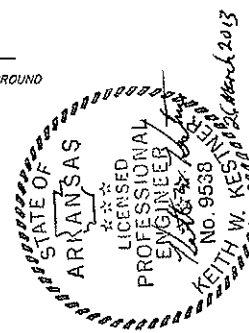
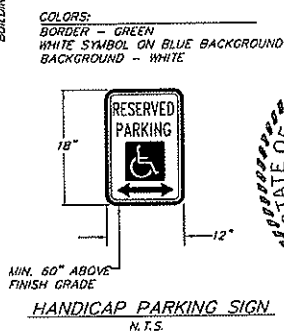
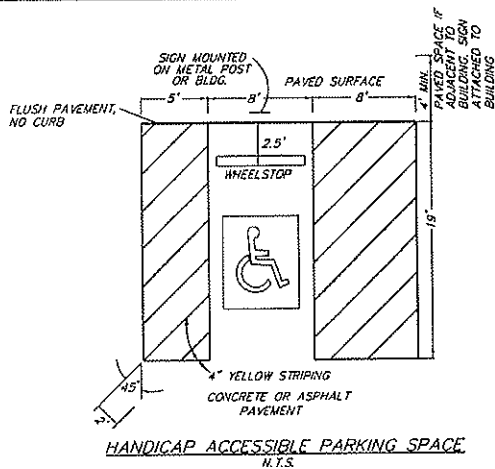
1B-5

Conditional Use #7-4-13: Head Start Preschool for 40 children 3-5 years old

5011 Mussett Road

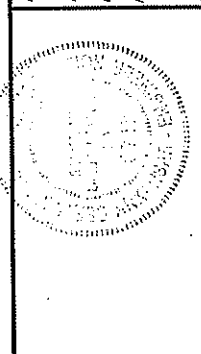


1B-2



(5023 MUSSETT RD.)

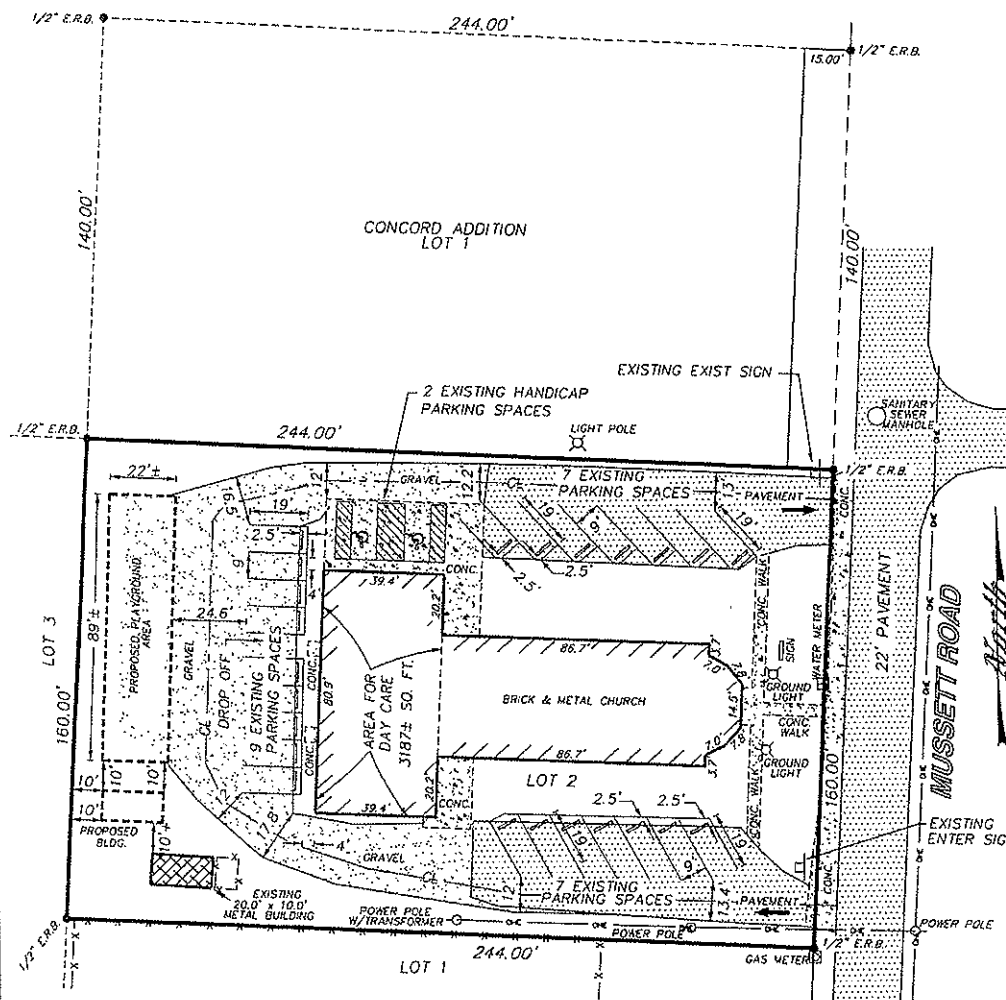
DATE:	FEB. 2013
DRAFTED BY:	KWK
SCALE:	1" = 40'
JOB NO.	39217A
DRAWING	PARKING
SHEET:	1 OF 1



This drawing is copyright material and is provided solely for the use of the project(s) named on this drawing and may not be used or distributed to any other project without the written consent of the engineer. The engineer and his employees shall be held harmless and without liability from claims, costs, or damages of any nature including costs of defense arising from improper use of this drawing or data, or by another party.

Seal of the State of Arkansas, Professional Engineer, License No. 9538, dated 2013.

Keith W. Kesler
Professional Engineer
Arkansas Registration #118
Certificate of Authorization #118

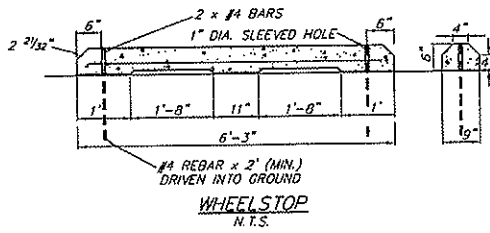


NOTE:
DAY CARE PARKING REQUIREMENT:
1 SPACE PER EMPLOYEE
PLUS 1 SPACE PER 200 SQ. FT. G.F.A.
PROJECTED NUMBER OF EMPLOYEES: 5
PROJECTED NUMBER OF CHILDREN: 40

DAY CARE BUILDING AREA CONSIDERED AVAILABLE: 3187 SQ. FT.
CONSIDER MINIMUM NUMBER OF PARKING SPACES NEEDED FOR DAY CARE: 21

EXISTING NUMBER OF PARKING SPACES:
23 REGULAR SPACES
PLUS 1 VAN ACCESSIBLE HANDICAP SPACE
AND 1 REGULAR HANDICAP SPACE

NO DAY CARE SERVICE PROJECTED FOR SUNDAYS



REVISIONS	
PARKING & PLAYGROUND REVISION	21 Nov 13

18-7

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Northside Baptist

Meeting Time & Date 3:30-5:30, March 25, 13

Meeting Purpose _____

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Liz Udair	Morris Rd	2
2.	Hazel Stewart	" "	K
3.	Emmett B Baker	8319 Spring	Ø
4.	Ronnie Rosen	1512 N. 43	
5.	Brenda Liner	Fort Smith Plank Rd	
6.	STEVE ALMOND	CITY	
7.	Mildred Johnson	3518 Wilma Ave	
8.	Shaker Johnson		
9.			
10.			
11.			

A few questions about playground fencing.

Heather Johnson

From: Steve Harrelson [mehawg@yahoo.com]
Sent: Wednesday, March 27, 2013 10:07 AM
To: Heather Johnson
Subject: Northside Baptist Church parking

To whom it may concern:

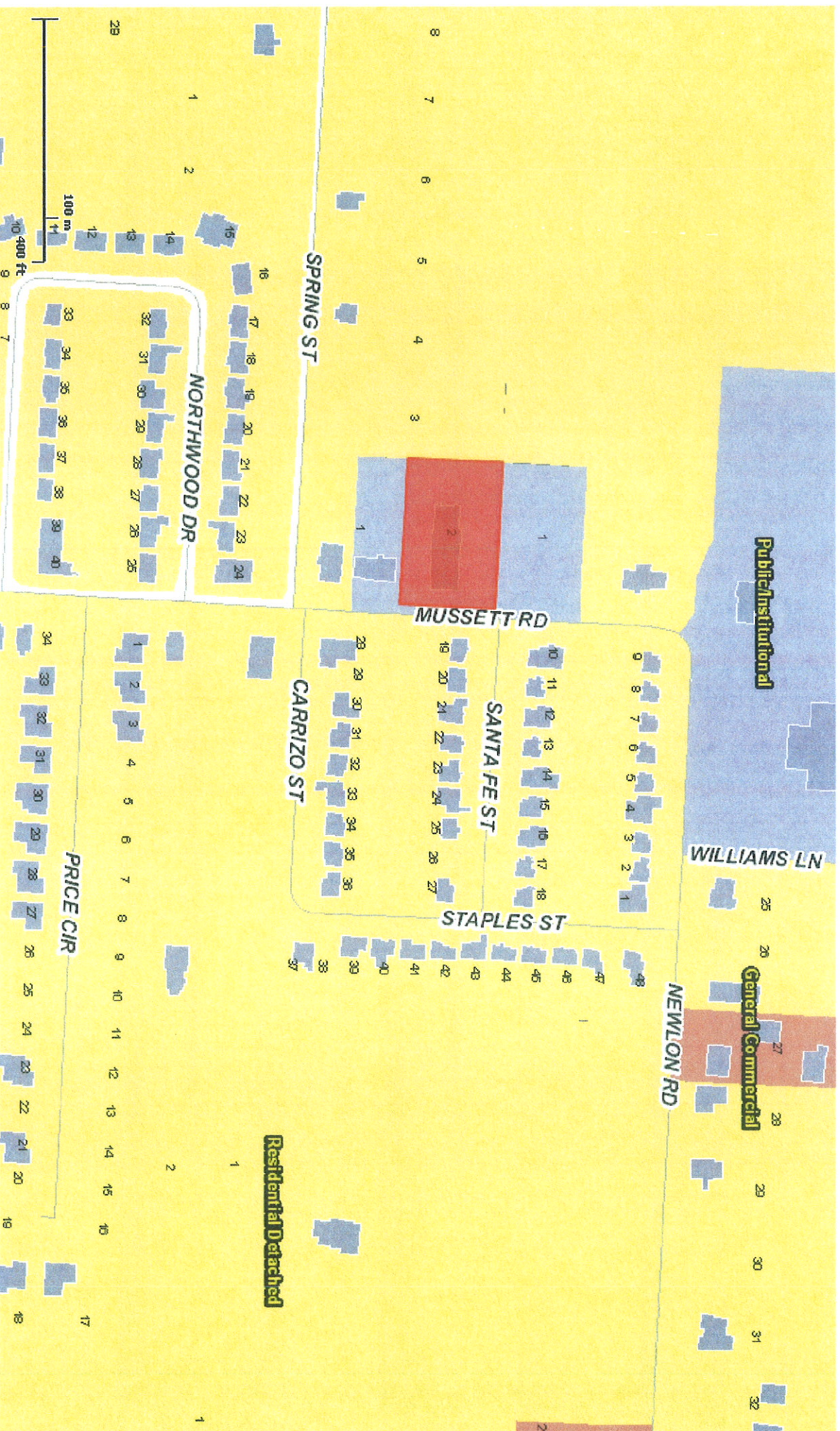
With regard to parking at our church site, this letter is to advise, that with the proposed Head Start playground being installed at the rear of our property, there will still be more than ample parking for all of our ongoing services and activities. We would still have rear parking against the building and down both sides of the sanctuary, which more than meets our needs. We also have available to us, the parking lot directly next door, belonging to the Concord Baptist Association, should we ever need it for additional parking for special events or funerals. If there are any questions, please feel free to contact me by email or by phone, which is 479-208-1413.

Sincerely,

Steve Harrelson, Pastor

Master Land Use Map for Conditional Use #7-4-13: Head Start Preschool for 40 children 3-5 years old

5011 Mussett Road



Conditional Use

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Conditional Use #8-4-13 - A request by James Abby, agent, for Brad and Veronica Lewis for Planning Commission consideration of a Conditional Use request for a church at 6421 Highway 271 South.

LOT LOCATION AND SIZE

The subject property is on the east side of Highway 271 South between Goodwin Road and Mason Street. The tract contains an approximate area of 0.97 acres with 121 feet of street frontage along Highway 271 South.

EXISTING ZONING

The existing zoning on this tract is Commercial Heavy (C-5).
Characteristics of this zone are as follows:

Purpose:

To provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. The C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter. The C-5 zoning district is appropriate in the General Commercial, Office, Research, and Light Industrial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-5 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto vehicle impoundment or holding yard, auto body shop, medical laboratory, beer garden, restaurants with outdoor dining, pet cemetery, bus station, utility substations, museum, parks, educational facilities, police station, community food service, nursing home and churches are examples of uses permitted as conditional uses.

1C-1

Area and Bulk Regulations:

Minimum Lot Size – 14,000 square feet
Maximum Height - 45 feet (1+1)
Maximum Lot Coverage - 75%
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 14,000 square feet
Minimum Lot Width – 100 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 20 feet
Rear Yard Setback - 20 feet
Side/Rear (adjoining SF Residential District/Development) – 30 feet
Minimum building separation – to be determined by current City building and fire code.
Required street access – Minor Arterial or higher

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is developed as an auto repair shop.

The area to the east is zoned Industrial Moderate (I-2) and is developed as a marble contractor shop and storage facility.

The area to the south is zoned Commercial Heavy (C-5) and Industrial Moderate (I-2) and is developed as an auto repair shop.

The areas to the west are zoned Commercial Heavy (C-5) and Industrial Moderate (I-2) and are developed as a pawn shop and restaurant.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

1C-2

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as General Commercial. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community. Approval of the conditional use will not conflict with the goals and objectives of the Master Land Use Plan.

PROPOSED CONDITIONAL USE

The approval of this Conditional Use will allow for a church to utilize an existing building.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – All vehicular access to the site will be through the existing driveway located on Highway 271

Drainage – No drainage concerns have been noted at this phase of the review process.

Right-of-way dedication – No additional right-of-way is required.

Multi-Use bike path – No bikeway dedication is required.

Landscaping – No new landscaping is proposed or required.

Screening – Property shall screen all trash receptacles on site. No parking lot screening is required.

Parking – There are 22 existing parking spaces, which conform to the minimum parking spaces required.

Signage – No new signage is noted on plans. Any new signage will require the submittal of a separate sign permit application.

Lighting – The development plan did not provide details on exterior lighting. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.

Setbacks – No new building extensions are proposed.

Architectural features – The existing building is metal.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Thursday, March 13, 2013 onsite. No surrounding property owners attended the meeting.

Staff recommends approval of the request with the following comments:

1. Submittal of a sign permit application for staff review of any new signage.
2. The trash receptacles shall be completely screened in accordance with Section 27-602-4 (C) (4) within the Unified Development Ordinance.

1C-3

3. Any exterior lighting shall be in compliance with Section 27-602-5 – Commercial and Outdoor Lighting requirements within the Unified Development Ordinance.

Conditional Use # 8-4-13

APPLICATION FOR CONDITIONAL USE

Name of Property Owner: Brad & Veronica LEWIS

Name of Authorized Agent (if applicable) ~~James Abby~~ JAMES Abby

Legal Description of property included in the conditional use request:

Tract 1 of KEATHLEY TRACTS LOT:1

Parcel # 14270-0001-00000-00

Street Address of Property:

6421 Hwy 271 South FORT Smith, AR, 7290

Existing Zoning Classification:

C-5

Proposed Zoning Classification (if applicable):

CHURCH

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property:

CHURCH, building class rooms & Bathrooms

What amenities are proposed such as landscaping and screening?

None

JAMES Abby
Owner or Agent Name (please print)

Signed:

3 Arizona Court Conway, AR 72032
Owner or Agent Mailing Address

Owner

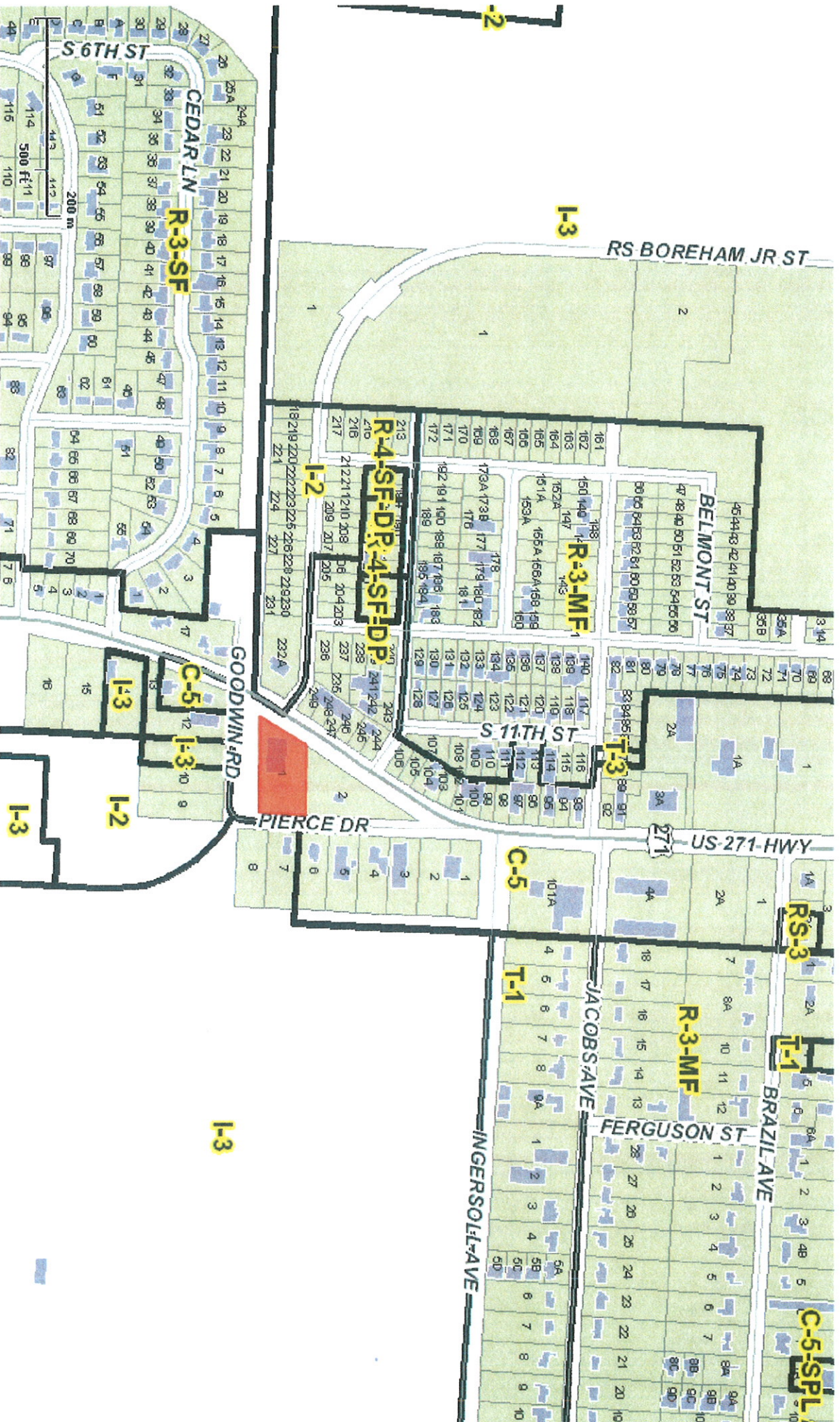
501-358-0609
Owner or Agent Phone Number

[Signature]
Agent

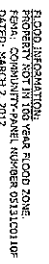
1C-5

Conditional Use #8-8-13: Church

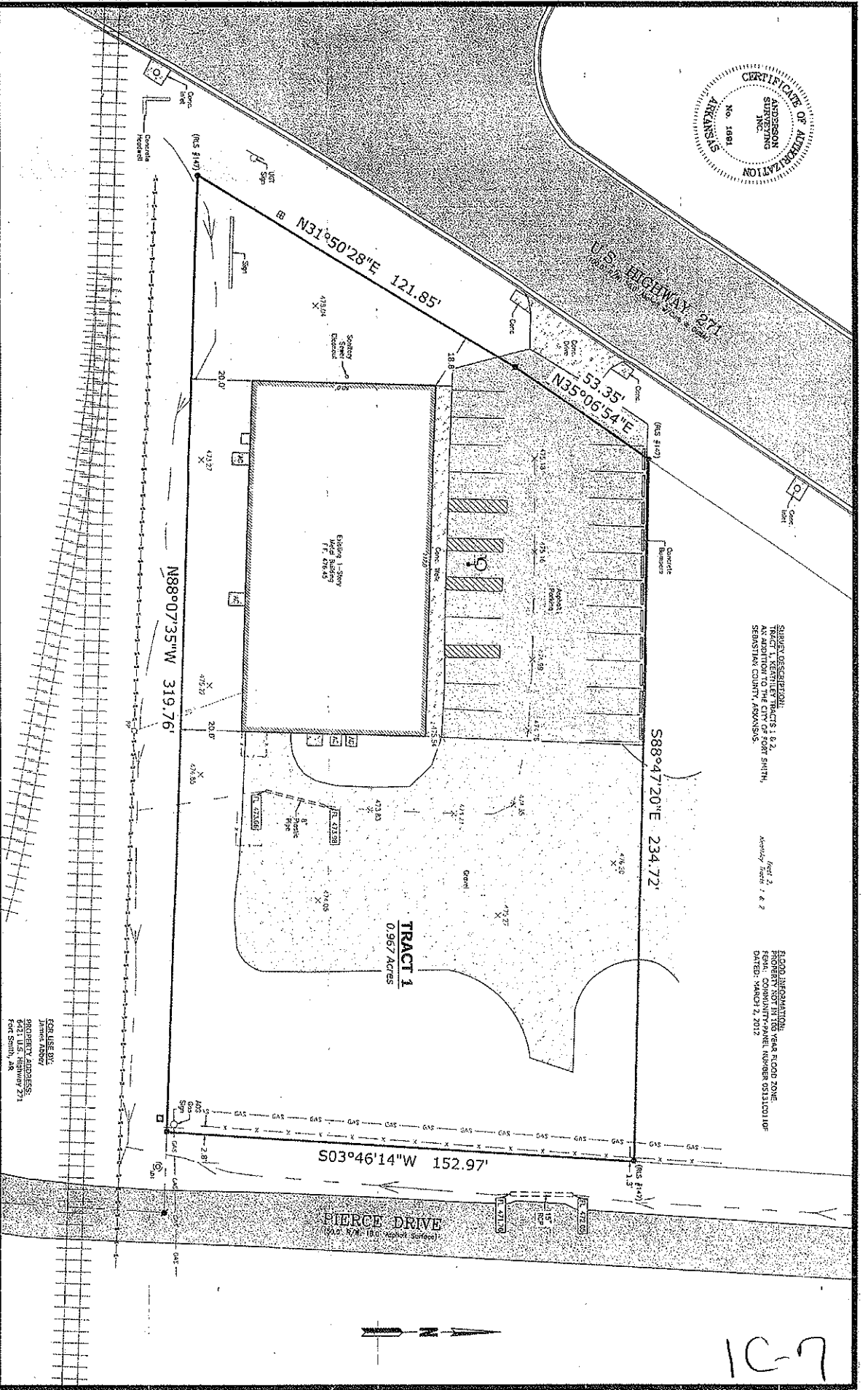
6421 US Highway 271

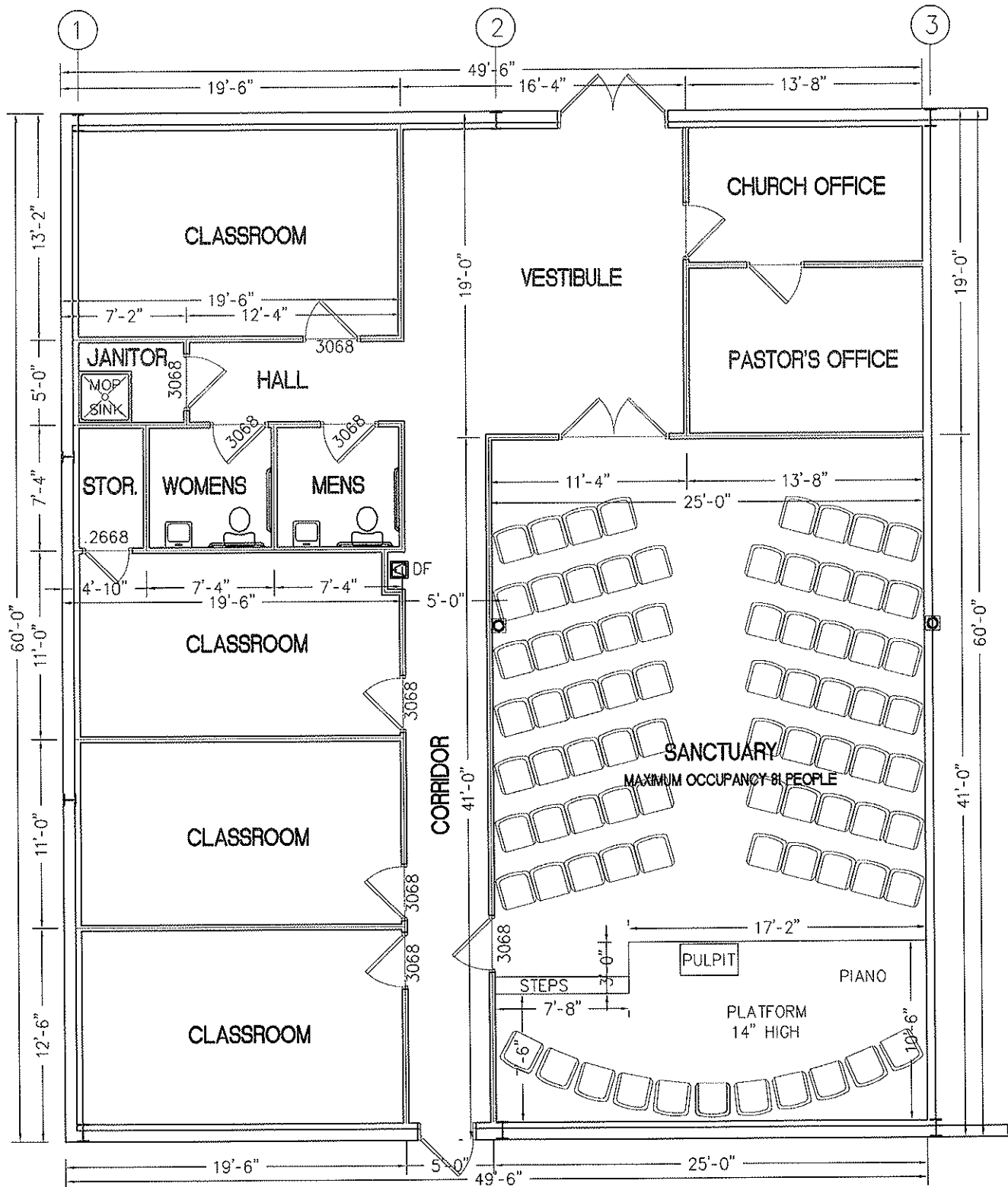


1C-6



107





FLOOR PLAN

1/8"=1'-0"

SHEET:
A-1

DATE:
3/12/2013

WILLIAM WIEDOWER ARCHITECTS
319 PRESIDENT CLINTON AVE.
LITTLE ROCK, ARKANSAS 72201
(501) 707-0115

PROJECT:
Blessed Hope Baptist Church
6421 Hwy 271 South - Fort Smith, Arkansas

1C-8

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Home Occupation # 3-4-13: A request by Neecol and Nicholas Carbonia for Planning Commission consideration of an etching and awards making business in a Residential Multifamily Medium Density (RM-3) zone located at 1208 North 41st Street.

LOT LOCATION AND SIZE

The Carbonia residence is located on the East side of North 41st Street between Grand Avenue and North "O" Street. The lot contains 7,315 square feet and is approximately 0.16 acres with 50' feet of street frontage along North 41st Street.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center,

golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet (1+1)	Maximum Height - 40 feet
Maximum Density – 20 Dwelling Units/Acre 65%	Maximum Lot Coverage -
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Side/Rear adjacent to RS district/development – 30 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The properties to the north, east, west and south are zoned Residential Multifamily Medium Density (RM-3) and developed as single family residences.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* classifies this site as Residential Detached. That classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. The home occupation, if approved, will not compromise the goals and objectives of the *Master Land Use Plan*.

PROPOSED HOME OCCUPATION

The applicants are requesting to operate an engraving and awards business from their residence. The Carbonia's application indicates business will be conducted Monday through Sunday from 9:00 a.m. to 7:00 p.m. Customers will not come to the residence.

PLANNING COMMISSION AUTHORITY

The *Unified Development Ordinance* allows the Planning Commission the authority to grant to residents of Residential-3 (RS-3 and RM-3), Residential-4 (RS-4 and RM-4) and Historic-1 (RH) zones the privilege of engaging in the limited pursuit of an occupation, operating minimal business activities or offering limited professional services in their homes, provided that in the opinion of the Planning Commission, those activities do not conflict with the purposes and objectives of this chapter as stated in Section 27-101 and provided such activities comply with this section as well as any conditions and limitations the Planning Commission deems necessary for any particular case in carrying out the spirit and intent of a section.

COMPATIBILITY/CONDITIONS

The planning commission is not required to approve an application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

STAFF COMMENTS AND RECOMMENDATIONS

In addition to Section 27-338-4F (Minimum Requirements for Consideration) Planning Staff recommends approval of the requested home occupation subject to the following:

1. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
2. The business license cannot be transferred to another residence without a new Home Occupation Application.
3. No commercial trash container will be placed at the residence.
4. Chemical etching shall not be allowed.

HOME OCCUPATION REQUIREMENTS

Sec. 27-338-4F. Minimum requirements for consideration

The planning commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

APPLICATION FOR HOME OCCUPATION

(Please print or type)

Name of Applicant: Neecol and Nicholas Carbonia

Legal Description of property included in the home occupation request:

Lot 3 subdivision Hawthorne Place

Street Address of Property: 1208 N 41st Street Ft. Smith AR 72904

Zone Classification: RM-3

Type of Business Requested: Etching and Awards & Promotional Managing

Signed:

Neecol Carbonia and Nicholas Carbonia
Applicant's Name (please print)

Neecol Carbonia N/C
Applicant

479 739 7918 or 479 221 8942
Phone Number of Applicant

20 February, 2013
Date

1208 N 41st Street Ft. Smith AR 72904
Applicant Mailing Address

Property Owner

Date

(if rental property)

10-5

Home Occ. # 3-4-13

HOME OCCUPATION INFORMATION FORM

1. Describe what type of business you are requesting. Etching and wood making
2. Will this business be completely contained in the residential structure? Yes ☒ No ☐
If no, described location. _____
3. What percentage of the residential floor area will be required to operate the business?
20%
4. Will operation of the business utilize any persons other than members of the immediate household? Yes ☐ No ☒
5. At what hours and days of the week do you plan to operate the business? 9AM-7PM
6. Will there be any noise NO, odor NO, or other outdoor activity NO associated with the business? If yes, explain. _____
7. Will materials or supplies be stored at this location? Yes ☒ No ☐
8. How much storage will be needed? less than file cabinet
9. Will merchandise be sold at this location? Yes ☐ No ☒ If yes, explain. _____
10. Will you have any business vehicles? Yes ☐ No ☒ If yes, describe below.
Type of Vehicle:
Make _____ Model _____
Color _____ Length (trailer) _____
11. Will this business require any license, certification, accreditation other than a city occupation license? Yes ☐ No ☒ What type? _____
12. Can you operate this business by appointment only? Yes ☒ No ☐

Explain: No one will come to this address. All transactions will be done via phone or email.

10-6

13. Will customers come to this location? Yes ____ No X
14. How many customers do you expect to have coming to your home at any one time?
None
15. Do you expect any drop-in customers? Yes ____ No X
16. How do you plan to provide parking for customers? N/A
-
17. Do you plan to advertise this business? Yes X No ____
If yes, by what methods? Internet / word of mouth
18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes X No ____
19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes X No ____
20. Will the Home Occupation require a commercial trash container (dumpster)?
Yes ____ No X
21. Do you own or rent this property? Own
22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.
23. Do you live at this location? Yes X No ____
24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?
Yes X No ____
25. Provide any other information that you feel helpful.

This is a small business with an even smaller disturbance
footprint for my surrounding neighbors. The machine is quiet
and we are a respected and well-liked family in this neighborhood.
I am a full-time member of the 188th PW and I make wood plaques for
service members among other things.

Home Occupation #3-4-13: Etching and award

1208 North 41st Street



Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Home Occupation #4-4-13: A request by Carlos Barrientos for Planning Commission consideration of a lawn and tree service business in a Residential Single Family Duplex Low/Medium Density (RSD-2) and Transitional (T) zone at 3625 Park Avenue

LOT LOCATION AND SIZE

The Barrientos residence is located on the north side of Park Avenue between North 39th Street and North 36th Street. The lot contains 23,138 square feet and is approximately 0.54 acres with 120' feet of street frontage along Park Avenue. The Barrientos also plan to utilize their adjoining separately parceled acreage and garage in this business. This property lying to the east and north of the Barrientos home is approximately 2.12 acres.

EXISTING ZONING (1)

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2).

Characteristics of this zone are as follows:

Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

EXISTING ZONING (2)

The existing zoning on this tract is Transitional (T).

Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Lot Size – 40,000 square feet	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.	

SURROUNDING ZONING AND LAND USE

The properties to the north, south, and east are zoned Residential Multifamily Medium Density (RM-3) and developed as single family residences.

The property to the west is Residential Multi Family Medium Density (RM-3) and is developed as a Convenience Store.

LAND USE PLAN COMPLIANCE

The *Master Land Use Plan* classifies this site as Commercial Neighborhood. That classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. The home occupation, if approved, will not compromise the goals and objectives of the *Master Land Use Plan*.

PROPOSED HOME OCCUPATION

The applicant is requesting to operate a Landscaping and Tree Service at their residence. The Barrientos's application indicates business will be conducted Monday through Friday from 7:00 a.m. to 5:00 p.m. Customers will not come to their residence.

PLANNING COMMISSION AUTHORITY

The *Unified Development Ordinance* allows the Planning Commission the authority to grant to residents of Residential-3 (RS-3 and RM-3), Residential-4 (RS-4 and RM-4) and Historic-1 (RH) zones the privilege of engaging in the limited pursuit of an occupation, operating minimal business activities or offering limited professional services in their homes, provided that in the opinion of the Planning Commission, those activities do not conflict with the purposes and objectives of this chapter as stated in Section 27-101 and provided such activities comply with this section as well as any conditions and limitations the Planning Commission deems necessary for any particular case in carrying out the spirit and intent of a section.

COMPATIBILITY/CONDITIONS

The planning commission is not required to approve an application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood. The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

STAFF COMMENTS AND RECOMMENDATIONS

In addition to Section 27-338-4F (Minimum Requirements for Consideration) Planning Staff recommends approval of the requested home occupation subject to the following:

1. All vehicles shall be parked in compliance with the Fort Smith Parking Regulations.
2. The business license cannot be transferred to another residence without a new Home Occupation Application.
3. No commercial trash container will be placed at the residence.
4. The "firewood for sale" sign shall be removed from the property.
5. The debris pile located on the property shall be disposed of properly.
6. All refuse shall be disposed of properly and no refuse shall be stored on site.
7. Mulching and grinding shall not occur at this location.

HOME OCCUPATION REQUIREMENTS

Sec. 27-338-4F. Minimum requirements for consideration

The planning commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment are allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

1E-5

APPLICATION FOR HOME OCCUPATION

(Please print or type)

Name of Applicant: Carlos E. Barriontes

Legal Description of property included in the home occupation request:

15-08-32.
PT. SW NE 1/5X190.

Street Address of Property: 3625 Park Ave. Ft. Smith, AR 72903

Zone Classification: ~~Residential~~ (T) Transitional

Type of Business Requested: Lawn & Tree Svc. (own care)

Signed:

Carlos E. Barriontes
Applicant's Name (please print)

479-221-1909.
Phone Number of Applicant

3625 Park Ave. Ft. Smith
Applicant Mailing Address
AR. 72903.

[Signature]
Applicant

2-23-13.
Date

Carlos Barriontes
Property Owner

2-23-13.
Date

(if rental property)

1E-6

Home Occ. # 4-4-13 4

HOME OCCUPATION INFORMATION FORM

1. Describe what type of business you are requesting. _____

Laundry free service

2. Will this business be completely contained in the residential structure? Yes ☒ No ☐

If no, described location. _____

3. What percentage of the residential floor area will be required to operate the business?

10%

4. Will operation of the business utilize any persons other than members of the immediate household? Yes ☒ No ☒ C.B.

5. At what hours and days of the week do you plan to operate the business? 7AM-5PM Mon-Fri

6. Will there be any noise No, odor NO, or other outdoor activity Yes associated with the business? If yes, explain. truck leaving/arriving

7. Will materials or supplies be stored at this location? Yes ☒ No ☐

8. How much storage will be needed? 3-car garage

9. Will merchandise be sold at this location? Yes ☐ No ☒ If yes, explain. _____

10. Will you have any business vehicles? Yes ☒ No ☐ If yes, describe below.

Type of Vehicle:

Make GMC Model Sierra 95"

Color green & grey Length (trailer) 16'

11. Will this business require any license, certification, accreditation other than a city occupation license? Yes ☐ No ☒ What type? _____

12. Can you operate this business by appointment only? Yes ☒ No ☒

Explain: schedule appointment/service routes

1E-7

13. Will customers come to this location? Yes ____ No ☒
14. How many customers do you expect to have coming to your home at any one time?
None
15. Do you expect any drop-in customers? Yes ____ No ☒
16. How do you plan to provide parking for customers? N/A
17. Do you plan to advertise this business? Yes ☒ No ____
If yes, by what methods? Yellow Pages
18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes ☒ No ____
19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes ☒ No ____
20. Will the Home Occupation require a commercial trash container (dumpster)?
Yes ____ No ☒
21. Do you own or rent this property? own
22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.
23. Do you live at this location? Yes ☒ No ____
24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?
Yes ☒ No ____
25. Provide any other information that you feel helpful.

Estimated Area is 2.5 acres

Home Occupation #4-4-13: Lawn & Tree Service (lawn care)

6-11

3625 Park Avenue



Memorandum

To: Planning Commission
From: Wally Bailey, Director of Development Services
Date: 4/5/2013
Re: Planned Zoning Districts

Attached you will find the proposed Planned Zoning District (PZD) proposal. The enclosed document shows the proposed code amendment with changes that were suggested at the March 18, 2013, planning commission work session. We are continuing to develop the application that you asked us to prepare at the November special work session.

We have added this topic to the April planning commission meeting. We are sending this to you in now so that you will have an opportunity to review prior to the study session next week.

Please let us know if you have any questions.

27-3 Planned Zoning District

27-3__-1 Purpose

- A. The process is deemed necessary to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically, the purposes of this article are to encourage:
1. Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan;
 2. Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
 3. Flexible administration of general performance standards and development guidelines;
 4. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.
 5. Developments that utilize design standards greater than the minimum required by the UDO.

27-3__-2 Submission Requirements.

The director shall prepare an application form which specifies the information to be submitted in support of a planned zoning district. This shall include at a minimum:

1. Pre-application conference is required pursuant to Section 27-302.
2. Application Fee
3. A project booklet, submitted graphically and/or in narrative form, addressing as many items as applicable. In no instance shall the design requirements and development standards be less than those found in Chapters 27-200, 27-500, 27-600, and 27-700.
 - a. Reason (need) for requesting the zoning change and response to how the proposal fulfills the intent/purpose of the Planned Zoning District.

2B

- b. Current ownership information (landowner/applicant and representative of applicable) and any proposed or pending property sales.
- c. Comprehensive description of the scope, nature, and intent of the proposal.
- d. General project concept:
 - i. Street and Lot Layout
 - ii. Site plan showing proposed improvements
 - iii. Buffer areas, screening, and landscaping
 - iv. Storm water detention areas and drainage
 - v. Undisturbed natural areas
 - vi. Existing and proposed utility connections and extensions
 - vii. Development and architectural design standards
 - viii. Building elevations
 - ix. Proposed signage (type and size)
- e. Proposed development phasing and time frame
- f. Identify land use designations.
- g. Identify area and bulk regulations.
- h. A chart comparing the proposed planned zoning district to the current zoning district requirements (land uses, setbacks, density, height, intensity, bulk and area regulations, etc.)
- i. A chart comparing the proposed land uses and the zoning district(s) where such land uses are permitted.
- j. A chart articulating how the project exceeds the UDO requirements (ex. increased landscaping, increased high quality materials on the façade, etc.).
- k. Statement of how the development will relate to existing and surrounding properties in terms of land use, traffic, appearance, height, and signage.
- l. A traffic study when required by the Engineering Department (consult with staff prior to submittal)
- m. Statement of availability of water and sewer (state size of lines).

27-3__-4 Application and Review Procedures

- A. Determination of Completeness.** Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by the Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.

20

- B. Neighborhood Meeting.** The applicant shall comply with the requirements for a neighborhood meeting pursuant to Section 27-304.
- C. Staff Review.** Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.
- D. Notice and Public Hearing.** Following completion of Staff review and such neighborhood meetings as are required, the application shall be scheduled for a public hearing before the Planning Commission.
1. Notice shall be provided, published, mailed and posted pursuant to Section 27-308.
 2. The Planning Commission may recommend a change in a zoning district category which constitutes a more restrictive change than requested by the applicant.
- E. Factors to be Considered.**
1. Rezoning Application -- Approval, approval as amended, or denial of the rezoning application shall be based upon consideration of the following factors:
 - a. Compatibility with the Comprehensive Plan, Master Land Use Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood).
 - b. Compatibility of the proposed development with the character of the neighborhood.
 - c. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
 - d. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.
 - e. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.
 - f. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).

2. Project Booklet -- The following criteria shall be considered when reviewing the project booklet:
 - a. Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
 - b. Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
 - c. Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety;
 - d. Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features;
 - e. Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies;
 - f. The required right-of-way dedication has been identified by the City Engineering Department.
 - g. All easements and utilities shall meet the requirements of the approving departments and agencies.
 - h. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size.
 - i. Articulate how the plan exceeds the UDO requirements. (ex. increased landscaping, increased high quality materials, etc.)

F. Planning Commission Action. Following the public hearing, the Planning Commission may recommend approval, approval as amended, or denial. The Planning Commission may also continue the application to a date certain.

1. The Planning Commission shall certify recommendations of approval or approval as amended to the Board of Directors for further procedure in conformity with A.C.A. tit. 14, ch. 56, subch. 4[§ 14-56-401 et. seq.]

The Planning Commission may impose a time limit for the development as described in the project booklet.

2. The Planning Commission's certified recommendations shall be automatically placed on the agenda of the Board of Director's second regularly scheduled meeting of the month following action by the Planning Commission.

2E

G. Appeal. Appeals from the decisions of the Planning Commission shall be as follows:

1. If the Planning Commission denies a rezoning request or project booklet so that no recommended action has been certified to the Board of Directors, the applicant shall have the right to file a request for review of the Planning Commission's decision with the Board of Directors.
2. The request for review shall be initiated in the following manner or be considered waived:
 - a. Filing a written notice of such appeal with the office of the City Clerk, or the Clerk's designated agent, during normal business hours.
 - b. Filed on or before the tenth calendar day following the Planning Commission meeting at which the proposed rezoning and/or preliminary plan hearing was held, or following the date on which the Planning Commission handed down its decision of non-recommendation, if the date of decision differs from the date of hearing. Notice of review of such decisions to the Board of Directors shall be provided to those persons who were provided postal notice of the original application. When filing the notice of appeal, the applicant shall pay the sum established by the Board of Directors to cover the cost of providing such legal notice.
3. The review shall take place at the second regularly scheduled meeting of the Board of Directors, following the request for review deadline. After the filing of a notice of review, the request may not be withdrawn or the hearing date postponed without the approval of the Board of Directors.
4. If the Board of Directors denies the application the applicant shall not be permitted to reapply for the same or substantially same request for a period of one (1) calendar year from the date of action by the Board.

H. Action by the Board of Directors. When the Planning Commission certifies a proposed rezoning to the Board of Directors, the Board shall consider the criteria established in Section 27-330-6(E) and may take any action consistent with Sections 27-310 and 27-311, including:

1. Approve the application and preliminary plan;
2. Approve as amended the application and/or preliminary plan. The Board of Directors may impose a time limit for the development as described in the project booklet; or
3. Deny the application and preliminary plan.

4. Where there is new, material evidence presented at the Board of Directors meeting that was not available to the Planning Commission, the Board shall return the application and preliminary plan to the Planning Commission for reconsideration based on the new evidence.
- I. **Appeal.** Appeal of the Board of Director's determination may be made to a court of record having jurisdiction.
 - J. **Re-application.** If the Board of Directors denies a proposed preliminary development plan or rezoning application certified to it with the Planning Commission's approval, the applicant shall not be permitted to re-apply for the same or substantially similar request for a period of six (6) months from the date of the action. No such rejected proposal shall be re-submitted, even after the expiration of six months for the consideration of the Board of Directors until it has been resubmitted first to the Planning Commission for consideration.
 - K. **Determination of Re-application.** The Director shall determine whether a re-filed application for rezoning meets the requirements of these provisions and whether the new application is the same or substantially similar to the previous application. The Director may consult with other departments, the Planning Commission, or the Board of Directors in making this determination. Appeals of the Director's determination decision may be made to the Planning Commission.

27-3__-5 Amendments to the Planned Zoning District Plans

Once a PZD has been approved, significant changes may be made only after approval of a revised PZD. This requires re-submittal of the application through the same procedural requirements of the original application. Changes that are not considered significant pursuant to Section 27-3__-5(a) may be approved at the Director's discretion. Disapproval of the changes may be appealed to the Planning Commission.

A. **Criteria.** For the purposes of this section, significant changes shall be determined by the Director. Significant changes shall mean any of the following, provided they are still within the approved standards of the applicable zoning district.

1. Increases in density or intensity of residential uses by more than 5%;
2. Increases in total floor area (entire plan) of all non-residential buildings by more than 5% or 5000 square feet, whichever is less;
3. Increases of lot coverage by more than 5%;
4. Changes to the architectural style that shall make the project inconsistent with previous approvals;

26

5. Changes in ownership patterns or stages of construction that shall lead to a different development concept;
6. Changes in ownership patterns or stages of construction that shall impose substantially greater volumes on streets and load capacities on public facilities;
7. Decrease of more than 5% in areas devoted to open space or the substantial relocation of such areas;
8. Changes in traffic circulation patterns that will affect traffic outside of the project boundaries;
9. Modification or removal of conditions and stipulations to the planned zoning district approval; or
10. Modifications that change, amend, or violate the terms of the Comprehensive Plan.

B. **Approval.** Any changes that seek to vary the standards of the applicable district and cannot be approved through paragraph (A) above must either be approved by the Planning Commission through a Planned Zoning District rezoning application or through a variance request to the Board of Zoning Adjustment.

C. **Appeal.** Appeal of the Director's determination of whether changes are significant may be taken to the Planning Commission, whose decision shall be final. No further action shall be taken to process the application pending the Planning Commission's determination.

Master Land Use Plan Amendment

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Proposed Master Land Use Plan Amendment at 1412 South 34th Street from Residential Detached to Residential Attached

The Planning Department is in receipt of an application from Cary Smallwood, agent for Cancer Support Foundation, to amend the *Master Land Use Plan* from Residential Detached to Residential Attached to accommodate a proposed rezoning to Residential Multifamily Medium Density (RM-3). The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

The existing zoning of the site is Transitional (T). A companion application (item #4) proposes a change in the zoning classification from Transitional (T) to Residential Multifamily Medium Density (RM-3). The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion application.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land Use classification and use contiguous to the subject lot are as follows:

The area to the north is classified as Residential Attached and is developed as the cancer support house.

The area to the south is classified as Residential Attached and is developed as an apartment complex.

The area to the west is classified as Residential Attached and is developed as the Gregory Kistler Treatment Center.

The areas to the east are classified as Residential Attached and Residential Detached and are developed as an apartment complex and a single family home.

The proposed land use classification of Residential Attached is described as follows:

3A

Purpose: To provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

Characteristics and Use: Duplex, triplex, fourplex, town-house, single and multiple story apartments and condominiums.

Criteria for Designation:

Compliance Noted

- | | |
|------------------------------------------------------------------------------------------------------------|-----|
| • Land adjacent to/or within regional centers | Yes |
| • Land within walking distance to commercial, office, low impact industry, regional institutions or parks. | Yes |
| • Located on a high volume roadway | No |
| • Planned as part of a mixed-use development | No |

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies South 34th Street as a local road.

STAFF COMMENTS AND RECOMMENDATIONS

The applicant is requesting a land use plan change to facilitate a companion rezoning request that will allow an apartment complex to be developed at this site. A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 20 units/acre which is nearer to the surrounding properties densities and compliant with the requested zoning district. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

A second neighborhood meeting was held onsite on Friday, April 5th. A summary of that meeting will be given at the Planning Commission meeting.

The small area of Residential Detached is an island within a larger area of Residential Attached. Staff recommends approval of the Master Land Use Plan Amendment.

3B

Application Type

☐ Minor Amendment ☐ Standard Amendment ☐ Major Amendment

(See Section 27-328-5 C. (Criteria))

Request to Amend Map ☒ Request to Amend Text ☐

Applicant Name: <u>CARLY SWAILLOOD</u>		
Firm Name: <u>CARRINGTON CREEK</u>		
Address: <u>P.O. Box 10176, Fort Smith AR 72917</u>		
Phone # (day): <u>479-806-7474</u>	Phone # (cell): <u>479-806-7474</u>	Fax #: <u>479-434-5442</u>
Owner Name: <u>SAME</u>		
Owner Address: <u>SAME</u>		
Phone # (day):	Phone # (cell):	Fax #:
Property Address (subject property): <u>1412 South 34th, Fort Smith AR</u>		
Subject Property		
Current Land Use: <u>VACANT</u>		
Existing MLUP Classification: <u>RESIDENTIAL DETACHED & RESIDENTIAL ATTACHED</u>		
Proposed MLUP Classification: <u>RESIDENTIAL ATTACHED</u>		
Existing Zoning Classification: <u>TRANSITIONAL</u>		
Proposed Zoning Classification: <u>RM-4</u>		
Surrounding Property		
Current Land Use: north- <u>CREEKMORE PARK, PARK PLAZA SHOPPING</u>		
south- <u>APARTMENTS</u>		
east- <u>APARTMENTS, HOUSES</u>		
west- <u>KISTLER CENTER, COMMERCIAL</u>		
Existing MLUP Classification: north: <u>RESIDENTIAL ATTACHED</u>		
south: <u>RESIDENTIAL ATTACHED</u>		
east: <u>RESIDENTIAL ATTACHED & RESIDENTIAL DETACHED</u>		
west: <u>RESIDENTIAL ATTACHED</u>		
Existing Zoning Classification: north: <u>R-2-SF-DP, C-4-P</u>		
south: <u>R-3-MF</u>		
east: <u>R-3-MF</u>		
west: <u>T-3, R-2-SF-DP</u>		
Pre-Application Meeting Date:		

For a Minor, Standard or Major Master Land Use Plan Amendment, please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

BC

1. A legal description of the subject property that is to be amended (reclassified).
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
3. The area dimensions of the property in square feet or acres.
4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

EXISTING ROAD ARE ADEQUATE

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

NO SEWER AVAILABLE - ADDING A LINE
WATER INADEQUATE ADDING A LINE
ADDING A FIRE HYDRANT
ALL OTHERS ARE SUFFICIENT

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

PROPOSING A 50 UNIT BUILDOUT. MAXIMUM DENSITY
FOR PROPOSED R-4 - 15 74 UNITS!

7. Identify any known or anticipated environmental concerns:

N/A

For a Standard or Major Master Land Use Plan Amendment only, please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

- a. Describe potential changes to development patterns in terms of local and regional impacts:

CLOSE TO PARK CREATING MORE PARK USAGE
- MORE HOUSING OPPORTUNITIES FOR FAMILIES
CREATE A TAX REVENUE FOR CITY

- b. Describe the consistency in zoning between existing and planned uses:

ALL PROPERTIES TO EAST ARE R-3-MF
ALL PROPERTIES TO SOUTH ARE R-3-MF
ALL PROPERTIES TO SW/E ARE R-3-MF
ALL PROPERTIES TO NORTH ARE GREENMOUNT PARK ZONED R-2-SF
ALL PROPERTIES TO NORTH/EAST ARE C-Y-P
ALL PROPERTIES TO NORTH WEST ARE PAIN AREA
ALL PROPERTIES TO WEST ARE R-2-SF-DD

- c. Provide explanation of the need for and demand in the proposed uses:

GOOD HOUSING IS NEEDED FOR FORT SMITH AREA

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

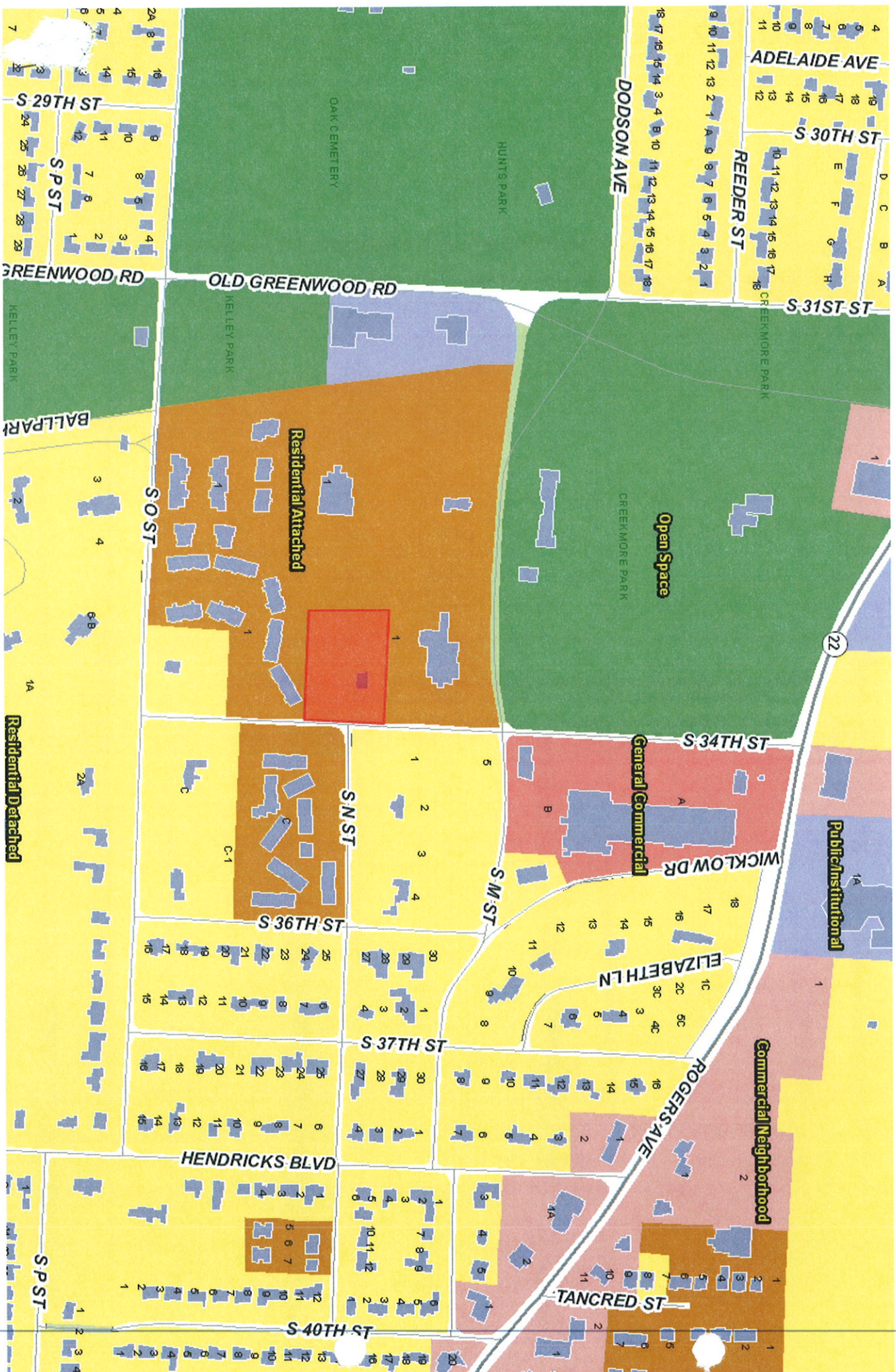
SEWER AND WATER LINES ARE ACCESSIBLE TO PROPERTY OWNER
AND WILL NOT BE A COST FOR CITY OF F.S.
EXISTING ROADS WILL NOT SUFFER IMPACT AND ARE ADEQUATE

For a Comprehensive Plan-Text Amendment only, please attach the following information. Provide answers on a separate sheet and attach it to this application:

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as "track changes") format.
2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

3F

3F





Google earth

© 2013 Google



Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Rezoning #3-3-13 - A request by Cary Smallwood, agent for the Cancer Support Foundation, for Planning Commission consideration of a zoning change from Transitional (T) to Residential Multifamily Medium Density (RM-3) by extension at 1412 South 34th Street

LOT LOCATION AND SIZE

The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

EXISTING ZONING

The existing zoning on this tract is Transitional (T).

Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet (1+1)	Maximum Height - 35 feet
Maximum Lot Size – 40,000 square feet 65%	Maximum Lot Coverage -
Minimum Lot Width at Building Line – 50 feet	
Minimum Street Frontage – 50 feet	
Front Yard Setback - 20 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 5 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.	

REQUESTED ZONING

The requested zoning on this tract is Residential Multifamily Medium Density (RM-3).
Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet (1+1)	Maximum Height - 40 feet
Maximum Density – 20 Dwelling Units/Acre 65%	Maximum Lot Coverage -
Minimum Lot Width at Building Line – 60 feet	

HB

Minimum Street Frontage – 20 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 15 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Side/Rear adjacent to RS district/development – 30 feet
Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is developed as a cancer support center.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as apartments and a single family home.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as apartments.

The area to the west is zoned Transitional (T) and is developed as the Gregory Kistler Treatment Center.

MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies South 34th Street as a Local Road.

LAND USE PLAN COMPLIANCE

The Master Land Use Plan currently classifies the site as Residential Detached and Residential attached. The applicant has submitted a companion application for a request to change the Master Land Use classification to Residential Attached. This classification is to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

PROPOSED ZONING

The proposed Residential Multifamily Medium Density (RM-3) zone, Master Land Use Plan amendment and Development Plan, if approved, will allow the development of a 50 unit apartment complex at 1412 South 34th Street.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

4C

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 20 units/acre which is nearer to the surrounding properties densities and compliant with the requested zoning district. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

A second neighborhood meeting was held onsite on Friday, April 5th. A summary of that meeting will be given at the Planning Commission meeting.

If the Planning Commission is inclined to approve the application staff request it be contingent upon the following.

1. Planning Commission approval of the companion master land use plan and development applications.
2. Approval shall be based off of the submitted development plan and any Planning Commission changes.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

2. Address of property: 1412 Suda 34E

3. The above described property is now zoned: T

4. Application is hereby made to change the zoning classification of the above described property to Rm-3 by Extension _____.
(Extension or classification)

5. Why is the zoning change requested?
To Build A 50 UNIT APARTMENT COMPLEX

6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Cary Smallwood
Owner or Agent Name
(please print)

Cary
Owner

P.O. Box 10176 FS AR 72917
Owner or Agent Mailing Address

or

479-806-7474
Owner or Agent Phone Number

Agent

MEMO

To: City Planning Commission
From: Planning Staff
Date: March 26, 2013
Subject: Development Plan – 1412 South 34th Street

The Planning Department is in receipt of a development plan from Cary Smallwood, agent for the Cancer Support Foundation, for a proposed apartment complex at 1412 South 34th Street.

TRACT LOCATION AND SIZE

The subject property is on the west side of South 34th Street between South O Street and South M Street. The tract contains an approximate area of 2.5 acres with approximately 311 feet of street frontage along South 34th Street.

EXISTING ZONING

The existing zoning on this tract is Transitional (T).

Characteristics of this zone are as follows:

Purpose:

To provide small scale areas for limited office, professional service, and medical services designed in scale with surrounding residential uses. The transitional zoning district applies to the Residential Attached, Institutional, Neighborhood Commercial and General Commercial categories of the Master Land Use Plan.

Permitted Uses:

Single family detached, duplexes, family group home, retirement housing, bridal shop, banking establishments and offices are examples of permitted uses.

Conditional Uses:

Assisted living, bed & breakfast inn, utility substation, country club, park or playground, college, library, primary and secondary school, business professional schools, fire and rescue station, emergency response station, police substation, diagnostic laboratory testing facility, hospital, daycare homes, substance abuse treatment facility, senior citizen center and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 5,000 square feet
feet (1+1)

Maximum Height - 35

Maximum Lot Size – 40,000 square feet
Coverage - 65%

Maximum Lot

Minimum Lot Width at Building Line – 50 feet
Minimum Street Frontage – 50 feet

5A

Front Yard Setback - 20 feet
Side Yard on Street Side of Corner Lot - 20 feet
Side Yard Setback – 5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet (residential), non residential to be determined by current City building and fire code.

REQUESTED ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet feet (1+1)	Maximum Height - 40
Maximum Density – 20 Dwelling Units/Acre Coverage - 65%	Maximum Lot
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Side/Rear adjacent to RS district/development – 30 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Transitional (T) and is developed as a cancer support center.

The areas to the east are zoned Residential Multifamily Medium Density (RM-3) and are developed as apartments and a single family home.

The area to the south is zoned Residential Multifamily Medium Density (RM-3) and is developed as apartments.

The area to the west is zoned Transitional (T) and is developed as the Gregory Kistler Treatment Center.

PROPOSED DEVELOPMENT PLAN

The development plan will facilitate a 50-unit apartment complex.

INGRESS/EGRESS/TRAFFIC CIRCULATION

The site plan has two access points from South 34th Street.

EASEMENTS/UTILITIES

The developer must agree to meet all franchise and city utility easement requirements.

DRAINAGE

The site plan has a detention pond on the northwest side of the property. The drainage plan shall be approved by the engineering department or another method approved by the engineering department.

SITE DESIGN

Landscaping – The preliminary development plan shows perimeter landscaping along South 34th Street along with interior landscaping and a note for parking lot screening. A final landscape plan that shows the continuous shrubs for the parking lot screening shall be submitted during the submission of a building permit that complies with the UDO.

Sidewalks – The preliminary development plan shows a 5' sidewalk adjacent to the property line.

Parking – 103 parking spaces are provided. The parking space and maneuvering dimension meet the UDO's minimum requirements.

Signage – A monument sign is shown in the development plan and it complies with the sign standards of the UDO. This sign and any other signs shall require a separate permit submittal.

Lighting – The development plan did not provide details on exterior lighting. If any lighting is proposed in the future it must comply with Section 27-602-5 of the Unified Development Ordinance.

Architectural Features – Exterior finish materials for the buildings include brick and vinyl siding. The exterior materials exceed the minimum 51% requirement for high-quality materials as required in the Transitional and Commercial Building Design Standards in Section 27-602-4(C) of the Unified Development Ordinance.

5C

Dumpster & Utility Box Screening – A dumpster location is on the south part of the property and will be screened with a privacy fence.

Setbacks – The site complies with the Residential Multifamily Medium Density (RM-3) setbacks.

Density – The proposed 50 unit apartment complex on the 2.5 acres has a density of 20 units/acre. This density complies with the Residential Multifamily Medium Density (RM-3) density requirements.

STAFF COMMENTS

A neighborhood meeting was held on February 26, 2012. Several surrounding property owners were in attendance in opposition to the request. A copy of the attendance sheet and meeting summary is enclosed within your packet.

Furthermore, the attending neighbors at the meeting had concerns with the following.

- Increased traffic flow and the location of driveways on a hill next to the South N Street and South 34th Street intersection.
- The density of this development 20 units/acre which is nearer to the surrounding properties densities and compliant with the requested zoning district. The other two apartment complexes have a density of 18.7 units/acre.
- The neighbors raised opposition based on utility extensions along with the drainage for the site.

A second neighborhood meeting was held onsite on Friday, April 5th. A summary of that meeting will be given at the Planning Commission meeting.

If the Planning Commission is inclined to approve the application, staff requests it be contingent upon the following.

1. Planning Commission approval of the companion master land use plan and rezoning applications.
2. Approval shall be based on the submitted development plan and any Planning Commission changes.
3. A detailed landscape plan shall be submitted during the building permit that complies with the perimeter, parking, and interior landscaping requirement of the UDO.
4. A separate sign permit shall be submitted.
5. Exterior lighting shall conform to section 27-602-5 of the Unified Development Ordinance.
6. The apartment complex shall maintain two entrances at all times for fire emergencies.
7. Re-platting of the Cancer Support Foundation Addition, Lots 1A & 1B shall be required prior to the issuance of a building permit.

50

8. A traffic statement has been submitted to and approved by the Engineering Department. Estimated trip projections are within the capacities of the local streets.
9. Storm water management including detention and water quality treatment shall be required.
10. The proposed off-site sanitary sewer outfall line must be moved southward to clear the Parks Department maintenance building (clearance is required for the building drainage and underdrain system). An easement from the Kistler Center will be required and is a condition of the site plan review.
11. Two options were presented for the storm drain outfall. Both options are acceptable from a functional standpoint. Option No. 1 (across Kistler property) is preferred but is dependent on obtaining private easements. Option No. 2 (to South "M" Street) is routed within the Parks Department maintenance facility and will require city approval. Easement(s) and/or agreement(s) by the Parks Department and the Board of Directors is a condition of this review.
12. The minimum Water Design Standards shall require the water line extension for the multi-family development to be a minimum of eight (8) inches in size. The fire hydrant shown shall be connected to the public water line extension paralleling South 34th Street.

DEVELOPMENT PLAN REVIEW APPLICATION

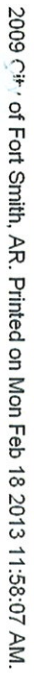
Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)
2. Address of property: 1412 SOUTH 34th, Fort Smith
3. The above described property is now zoned: T
4. Does the development plan include a companion rezoning request?
Yes ✓ No
5. If yes, please specify the companion application submitted:
 - Conventional Rezoning
 - Planned Rezoning
 - Conditional Use
 - Master Land Use Plan Amendment
 - Variance
6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:
RM-4 by CLASSIFICATION
(Zoning Classification) (Extension or classification)
7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:
NORTH - R-2-SF-DP, C-4-P, SOUTH - R-3-MF,
EAST - R-3-MF, WEST T-3, R-2-SF-DP
8. Total acreage of property 2.5 ACRES

5H

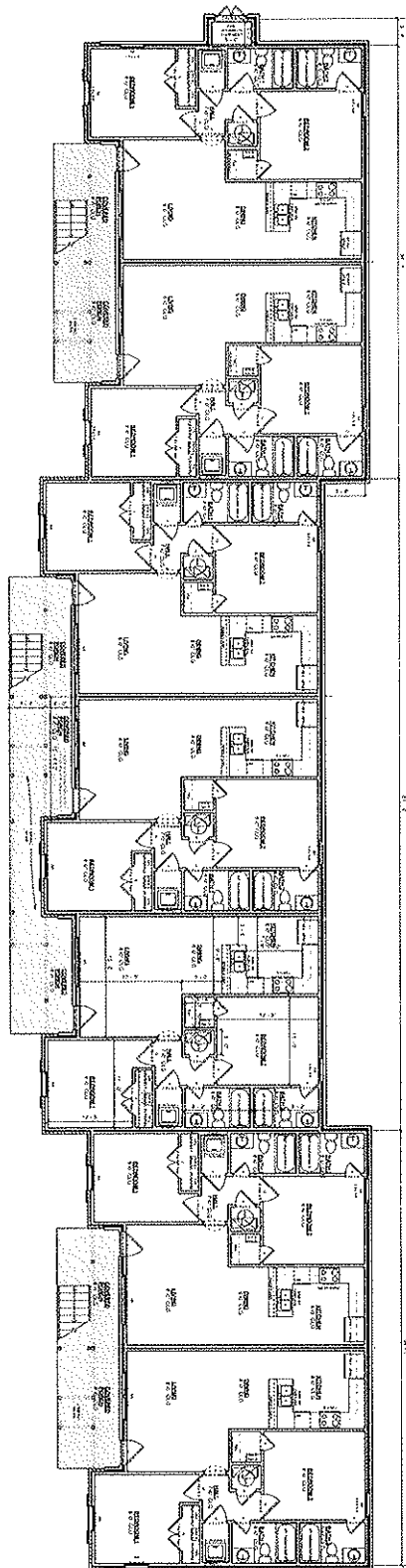
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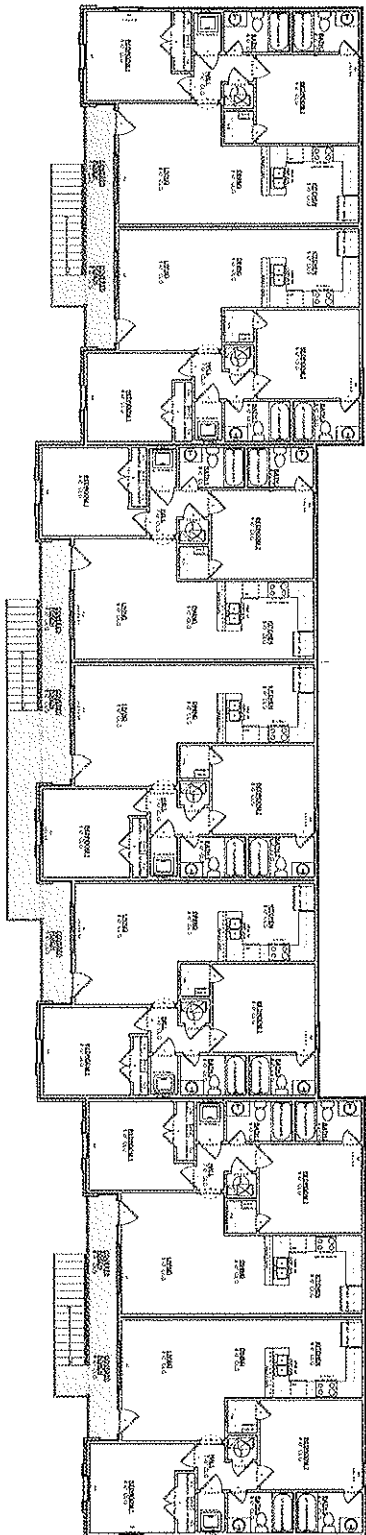


511





Floor Plan

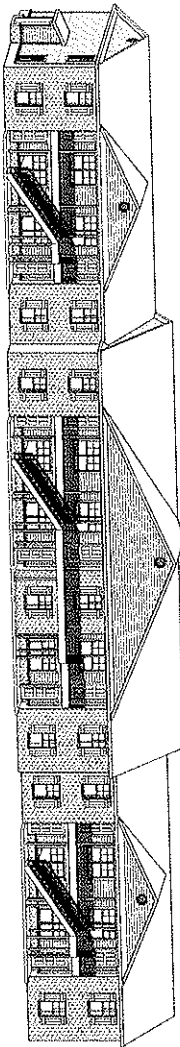


Second Floor

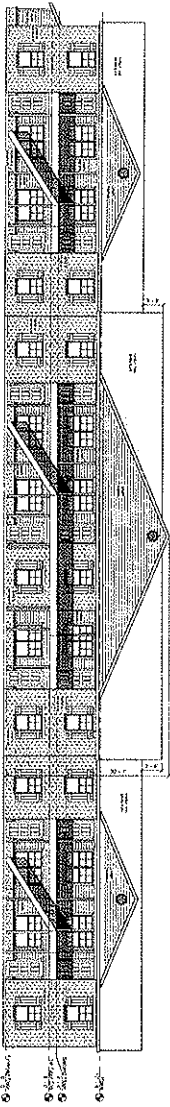
Carrington Creek Homes				Date: _____ Drawn by: _____ Checked by: _____ Approved by: _____	
10000 Carrington Creek Homes 10000 Carrington Creek Homes		10000 Carrington Creek Homes 10000 Carrington Creek Homes		10000 Carrington Creek Homes 10000 Carrington Creek Homes	
10000 Carrington Creek Homes 10000 Carrington Creek Homes		10000 Carrington Creek Homes 10000 Carrington Creek Homes		10000 Carrington Creek Homes 10000 Carrington Creek Homes	

55

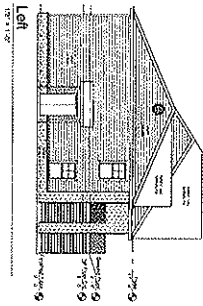
3D View



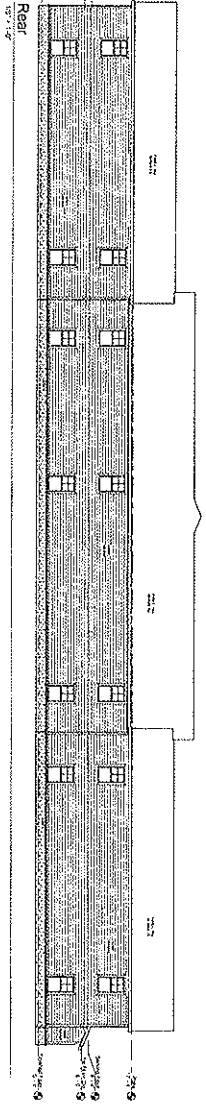
Front



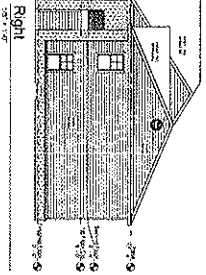
Left



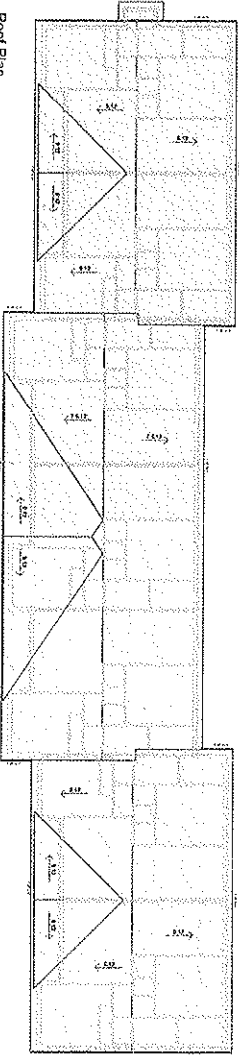
Right



Right



Roof Plan



<p>Carlington Creek Homes</p> <p>www.carlingtoncreek.com</p>			<p>20th Street Apartments</p> <p>2</p>	
<p>Project Name</p> <p>Project Address</p> <p>Project City</p> <p>Project State</p> <p>Project Zip</p>	<p>Project Phone</p> <p>Project Email</p> <p>Project Website</p>		<p>Project Manager</p> <p>Project Designer</p> <p>Project Engineer</p>	

5K

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Rezoning #4-4-13 - A request by Mickle Wagner Coleman, agent for Fort Chaffee Redevelopment Authority, for Planning Commission consideration of a zoning change from Unzoned to Industrial Light (I-1) by classification at 7300 Chad Colley Boulevard

LOT LOCATION AND SIZE

The subject property is on the northwest corner of the intersection of Chad Colley Boulevard and Roberts Boulevard. The tract contains an approximate area of 11 acres with approximately 1200 feet of street frontage along Roberts Boulevard and approximately 500 feet of street frontage along Chad Colley Boulevard and Veterans Avenue.

EXISTING ZONING

The existing zoning on this tract is unzoned.

REQUESTED ZONING

The requested zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

6A

Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 20,000 square feet
(1+1)

Maximum Height - 45 feet

Maximum Lot Coverage -

75%

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 20,000 square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

SURROUNDING ZONING AND LAND USE

The area to the north is not zoned and is undeveloped.

The area to the south is not zoned and is undeveloped.

The areas to the east are not zoned and are developed as a warehouse.

The areas to the west are not zoned and are developed as warehouses.

MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies Chad Colley Boulevard and Roberts Boulevard as a Boulevard and Veterans Avenue as a local road.

LAND USE PLAN COMPLIANCE

On March 21, 2013, the Fort Chaffee Redevelopment Authority amended the Chaffee Crossing Future Land Use Plan on this site from *Mixed Use: Residential/Commercial/Office* to *Mixed Use: Industrial/Office*. This land use classification is appropriate for the proposed Industrial Light (I-1) zoning district.

6B

PROPOSED ZONING

The proposed Industrial Light (I-1) zone and Development Plan, if approved, will allow the development of a metal processing company at 7300 Chad Colley Boulevard. The company processes and distributes aluminum and stainless steel.

STAFF COMMENTS AND RECOMMENDATIONS

Staff recommends approval of the zoning request with the following comments:

1. Planning Commission approval of the companion development application.
2. Approval shall be based on the submitted development plan and any Planning Commission changes.

6C

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See Attached

2. Address of property: 7300 Chad Colley Boulevard

3. The above described property is now zoned: Unzoned

4. Application is hereby made to change the zoning classification of the above described property to I-1 (Industrial Light) by classification
(Extension or classification)

5. Why is the zoning change requested?

Unzoned

6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Mickle Wagner Coleman, Inc.
~~Owner~~ or Agent Name
(please print)

Owner .

P.O. Box 1507, Ft. Smith, AR. 72902
~~Owner~~ or Agent Mailing Address

or
Randell Coleman
Agent

479-649-8484
~~Owner~~ or Agent Phone Number

Rezoning #4-4-13: From Not Zoned to Industrial Light (I-1)

7300 Chad Colley Boulevard



6E



WELLS LAKE RD

VETERANS AVE

CHAD COLLEY BLVD

ROBERTS BLVD

BLACK BEAR TR

PROPOSED I-1

RS-4

FREE BLVD

400 ft

1000 ft

BOST-DR

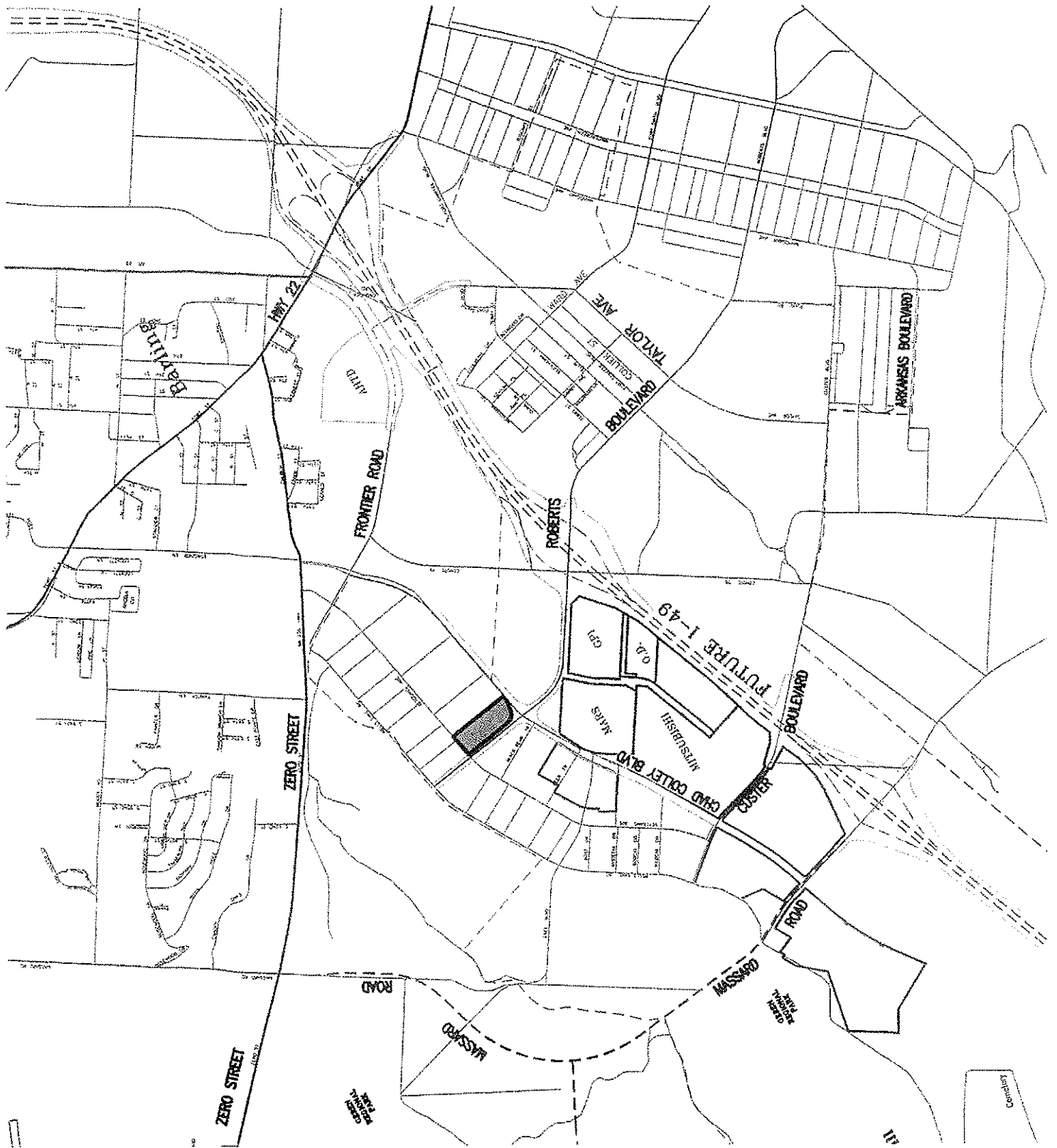
RM-4

FLAGSTONE RD

COYOTE TR

Zoning Map

Project Van Horn



66

MEMO

To: City Planning Commission
From: Planning Staff
Date: March 26, 2013
Subject: Development Plan – 7300 Chad Colley Boulevard

The Planning Department is in receipt of a development plan from Mickle Wagner Coleman, agent for Fort Chaffee Redevelopment Authority for a proposed metal processing company at 7300 Chad Colley Boulevard.

TRACT LOCATION AND SIZE

The subject property is on the northwest corner of the intersection of Chad Colley Boulevard and Roberts Boulevard. The tract contains an approximate area of 11 acres with approximately 1200 feet of street frontage along Roberts Boulevard and approximately 500 feet of street frontage along Chad Colley Boulevard and Veterans Avenue.

EXISTING ZONING

The existing zoning on this tract is unzoned.

REQUESTED ZONING

The requested zoning on this tract is Industrial Light (I-1).

Characteristics of this zone are as follows:

Purpose:

To provide for a mixture of light manufacturing, office park, research and development, and limited retail/service retail land uses in an attractive, business park setting. The Industrial Light district may be used as a zoning buffer between mixed uses, commercial uses and heavier industrial uses. The I-1 zoning district is appropriate with the Office, Research, and Light Industrial (ORLI) and Industry classifications of the Master Land Use Plan.

Permitted Uses:

Auto and boat related businesses, a wide variety of retail businesses, indoor flea market, pawnshop, financial services, offices, bar or tavern, restaurant, animal and pet services, manufacturing and commercial communication towers are examples of permitted uses.

Conditional Uses:

Homeless shelter, truck stop, outdoor flea market, beer garden, restaurant with outdoor dining, pet cemetery, animal food processing, petroleum distribution facility, bus station, recycling center, sports complex, educational facilities and police station are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 20,000 square feet
feet (1+1)

Maximum Height - 45

Maximum Lot

Coverage - 75%

Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 2 acres
Existing District (By Extension) – 20,000

square feet

Minimum Lot Width – 100 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 10 feet

Rear Yard Setback - 10 feet

Side/Rear (adjoining SF Residential District/Development) – 100 feet (may be reduced to 60 feet with Planning Commission approval of screening and/or landscaping through the Development Plan approval process)

Minimum building separation – to be determined by current City building and fire code.

Required street access – Major Arterial or higher

SURROUNDING ZONING AND LAND USE

The area to the north is not zoned and is undeveloped.

The area to the south is not zoned and is undeveloped.

The areas to the east are not zoned and are developed as a warehouse.

The areas to the west are not zoned and are developed as warehouses.

PROPOSED DEVELOPMENT PLAN

The development plan will facilitate the development of a metal processing company.

INGRESS/EGRESS/TRAFFIC CIRCULATION

Ingress and egress into the site will be accessed from a driveway on Roberts Boulevard and a driveway on Chad Colley Boulevard.

EASEMENTS/UTILITIES

The developer must agree to meet all franchise and city utility easement requirements.

7B

DRAINAGE

A detention pond is proposed on the southeasterly side of the property. The site must comply with the city's 2011 Storm Drainage Standards, including detention and water quality treatment. Offsite outfall improvements may be required.

SITE DESIGN

Landscaping – The landscaping plan shows a 20' landscape buffer along Chad Colley Boulevard consisting of trees and shrubs. A 10' landscape buffer of trees is also shown along Roberts Boulevard with parking lot screening consisting of trees and shrubs adjacent to the parking lot. The landscape plan also shows a total of 770 s.f. of interior landscaping as well as the required shade trees to comply with Chaffee Crossing's building landscape and parking lot landscape requirements.

To comply with the Chaffee Crossing Master Development Guidelines, perimeter landscaping is also required adjacent to Veterans Avenue and shrubbery along the full length of the property adjacent to Roberts Boulevard. Deviation from these guidelines will require a variance from the Fort Chaffee Redevelopment Authority's Design Review Committee.

Parking – 33 parking spaces are provided with an additional area reserved for 40 future parking spaces. The parking space and maneuvering dimension meet the UDO's minimum requirements.

Signage – A elevation drawings shows a wall sign on the façade facing Roberts Boulevard. The wall sign not exceed 20% of the wall area or exceed 8' in height in compliance with Chaffee Crossing' signage regulations. This sign shall require a separate permit submittal.

Lighting – Exterior site lighting is proposed and shall comply with Section 27-602-5 of the Unified Development Ordinance regarding Outdoor and Commercial Lighting.

Architectural Features – The approximately 65,000 s.f. foot building has exterior finish materials consisting of a 12' band of concrete masonry units (CMU) on the lower portion of the elevations with the remaining portions of the elevations covered in decorative metal panels. The use of metal on the building will require a variance from the Fort Chaffee Redevelopment Authority's Design Review Committee.

Any roof top heating, ventilation and air conditioning (HVAC) units, PVC plumbing and vent pipes shall be effectively screened from view of the street rights-of-ways and adjacent properties in accordance with the Chaffee Crossing Guidelines.

Trash Receptacle & Storage Area Screening - A refuse receptacle and storage area located at the rear of the building on the easterly side of the site is shown to be screened with a 6' high screening fence.

7C

Setbacks – The site complies with the setbacks for the proposed Industrial Light (I-1) zoning district setbacks.

STAFF COMMENTS

Staff recommends approval of the development plan with the following conditions:

1. FCRA variance approval of the use of metal on the proposed building.
2. FCRA variance approval of the elimination of perimeter landscaping adjacent to Veterans Avenue and the elimination of required shrubbery adjacent to Roberts Boulevard.

DEVELOPMENT PLAN REVIEW APPLICATION

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

"Attached"

2. Address of property: 7300 Chad Colley Boulevard

3. The above described property is now zoned: Unzoned

4. Does the development plan include a companion rezoning request?

Yes X No _____

5. If yes, please specify the companion application submitted:

- ☒ Conventional Rezoning
- ☐ Planned Rezoning
- ☐ Conditional Use
- ☐ Master Land Use Plan Amendment
- ☐ Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

I-1 by Classification
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

Unzoned properties within 300' – One structure to the Northeast – Metal building – asphalt drive. One structure to the Southwest – Metal building – asphalt drive.

8. Total acreage of property 11.0 Acres

7E

Signed:

Mickle Wagner Coleman, Inc.

Owner or Agent Name
(please print)

Owner

Owner or Agent Mailing Address

Owner or Agent Phone Number

or


Agent

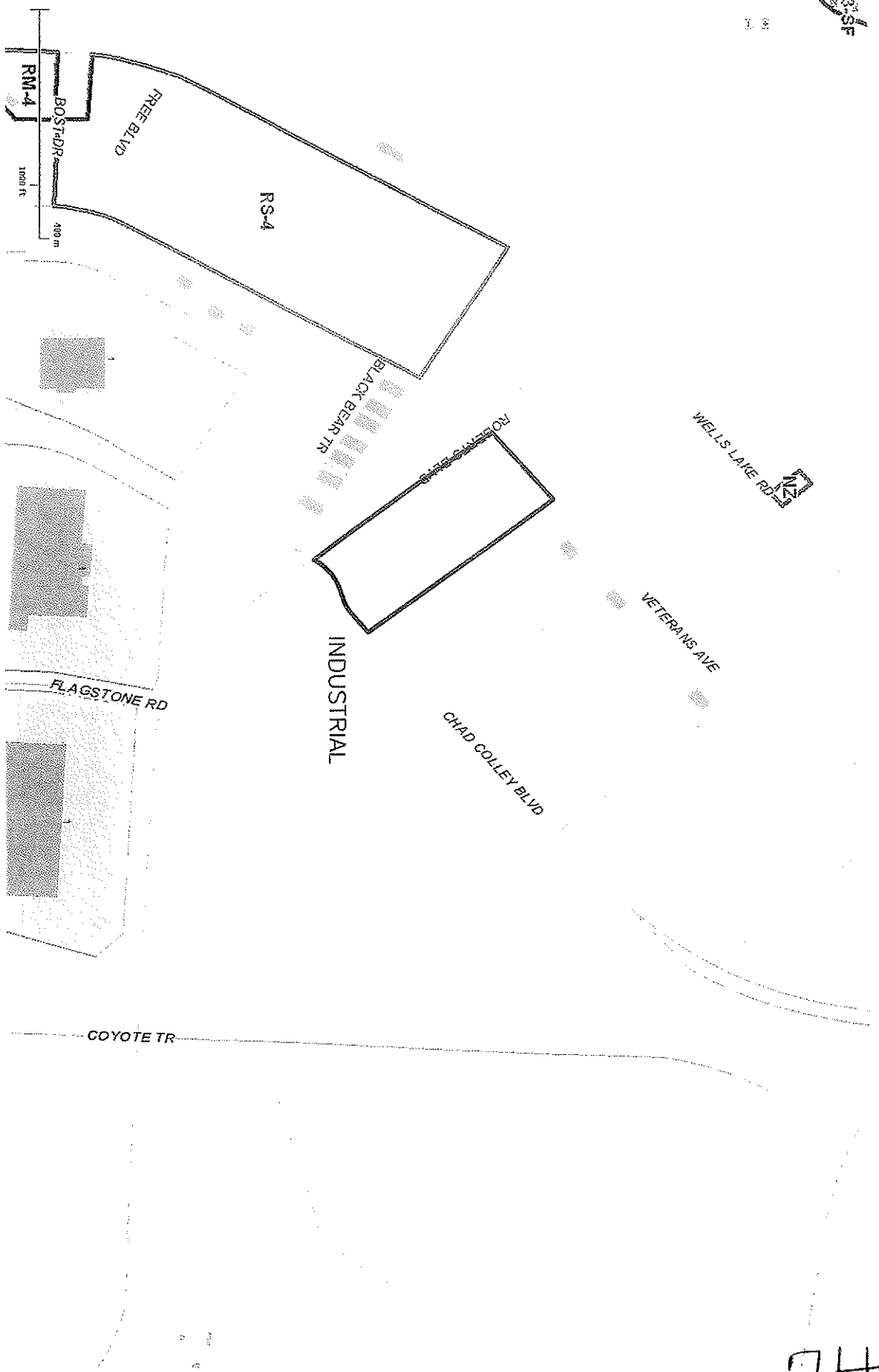
7F

Development Plan: Steel Processing Company

7300 Chad Colley Boulevard



76



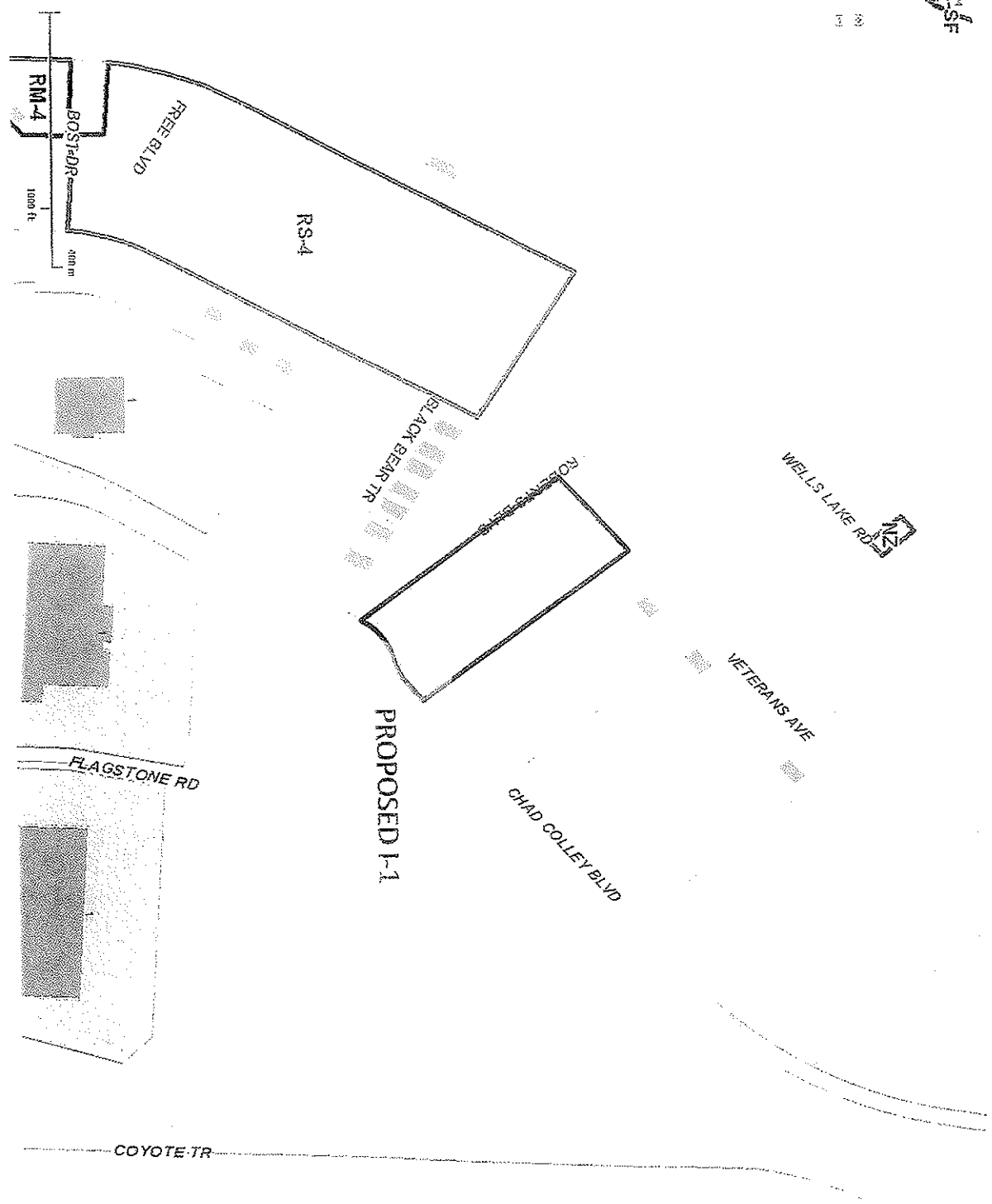
Land Use Map

Project Van Horn

31 SF

100

100



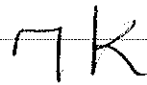
Zoning Map

Project Van Horn

76

5

10/10/10



Conditional Use

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Conditional Use #9-4-13 - A request by Michael Johnson, agent, for the Special School District of Fort Smith for Planning Commission consideration of an amendment to a Conditional Use (2-1-13) for expansion of Woods Elementary School at 3201 Massard Road, (companion item # 10)

LOT LOCATION AND SIZE

The subject property is on the east side of Massard Road, just north of the Wal-Mart Super Center. The tract contains an area of 12 acres with approximately 350 feet of street frontage along Massard Road.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary

8A

schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet

Maximum Height - 40 feet (1+1)

Maximum Density – 20 Dwelling Units/Acre

Maximum Lot Coverage - 65%

Minimum Lot Width at Building Line – 60 feet

Minimum Street Frontage – 20 feet

Front Yard Setback - 25 feet

Side Yard on Street Side of Corner Lot - 15 feet

Side Yard Setback – 7.5 feet

Rear Yard Setback - 10 feet

Side/Rear adjacent to RS district/development – 30 feet

Minimum building separation – 10 feet

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Single Family-Duplex Medium/High Density (RSD-3) and is developed Chaffin Junior High School.

The area to the east is zoned Residential Single Family-Duplex High Density (RSD-4) and is developed as Fort Smith Boys & Girls Club.

The area to the south is zoned Commercial Heavy (C-5) and is developed as the Wal-Mart Super Center and various other retail businesses.

The area to the west is zoned Transitional (T) and is developed as a fire station and single family residences.

PURPOSE OF CONDITIONAL USE

Certain uses are defined as conditional uses because of the potential harmful effects the use can cause to nearby properties and because the requirements to eliminate harmful effects vary from site to site. In considering conditional uses, the Planning Commission will review the overall compatibility of the planned use with the surrounding property as well as specific items such as screening, parking, and landscaping to make sure that no harmful effects occur to nearby properties.

CONDITIONS FOR A CONDITIONAL USE

All requirements for a Conditional Use must be met before any part of the use may be utilized. If any specific condition is not met, the Conditional Use authorization may be revoked by the City of Fort Smith pursuant to Section 27-314.

Requirements for a Conditional Use must begin to be met within one (1) year of the authorization unless a special time limit has been imposed by the Planning Commission. An extension of time beyond one (1) year or that imposed by the Planning Commission may be granted by the Director one (1) time for up to ninety (90) days.

8B

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Public Institutional. This classification is to provide for needed community services of both a public and quasi-public nature. Approval of the Conditional Use will not conflict with the goals and objectives of the Master Land Use Plan.

PROPOSED CONDITIONAL USE

The approval of this Conditional Use will allow for the amendment for the Conditional Use approved January 18, 2013. The only change to the development plan is a request for a variance to retain an existing driveway for Woods Elementary School facility. The driveway was to be removed with the previous Conditional Use and Variance.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – All vehicular access to the site will be through the existing driveways located on Massard Road along with a proposed new driveway that will provide entry and exit drive lines. A companion application requests a minimum separation from 200' to 125' and 45' between the proposed new lane and the existing driveway on Massard Road.

Easement/utilities – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City's Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

Drainage – No drainage concerns have been noted at this phase of the review process.

Right-of-way dedication – No additional right-of-way is required.

Multi-Use bike path – No bikeway dedication is required.

Landscaping – No new landscaping is proposed or required.

Screening – Property is already screened to the south adjacent to the Wal-Mart Shopping Center. No parking lot screening is required.

Parking – There are 176 existing parking spaces, which exceed the minimum parking spaces required.

Signage – No new signage is noted on plans. Any new signage will require the submittal of a separate sign permit application.

Lighting – The development plan did not provide details on exterior lighting. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.

Setbacks – The proposed additions meet all setback requirements.

Architectural features – The additions will consist of brick and glass to match the existing building. New steel canopies will be constructed along the front of the building.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Thursday, March 14, 2013 at 3201 Massard Road. No surrounding property owners attended the meeting.

Staff recommends approval of the request with the following comments:

1. The final development plan must provide details on the proposed exterior lighting that complies with Section 27-602-5 Commercial and Outdoor Lighting requirements.
2. Submittal of a sign permit application for staff review of any new signage.
3. Board of Zoning Adjustment approval of the companion application for a variance for a minimum separation between driveways from 200' to 125' and 45'.

Conditional Use # 9-4-13

APPLICATION FOR CONDITIONAL USE - AMMENDMENT

Name of Property Owner: SPECIAL SCHOOL DISTRICT OF FORT SMITH

Name of Authorized Agent (if applicable) MICHAEL G. JOHNSON, ARCHITECTURE PLUS, INC.

Legal Description of property included in the conditional use request:

SW NW NE & N/2 N/2 SW/NE SEC. 30-8-31

Street Address of Property:

3201 MASSARD RD

Existing Zoning Classification: RM3

Proposed Zoning Classification (if applicable): NA

Describe Proposed Conditional Use Request, including the development of any construction proposed of the property: (AMMENDMENT TO "ORIGINAL" CONDITIONAL USE APPROVED JAN 8, 2013)

EXISTING BUILDING WILL CONTINUE TO BE USED FOR ELEMENTARY EDUCATION.

PROPOSED CONSTRUCTION - RENOVATION/CONVERSION & CLASSROOM/ADMIN. ADDITIONS

What amenities are proposed such as landscaping and screening?

PROPOSED CONSTRUCTION WILL IN NO WAY AFFECT OR DIMINISH THE EXISTING LANDSCAPING OR SCREENING

Michael G. Johnson, AIA
Architecture Plus, Inc.
Owner or Agent (909 South 21st Street)
Fort Smith, AR 72901

Owner or Agent Mailing Address

479 - 783 - 8395
Owner or Agent Phone Number

Signed:

X
Owner

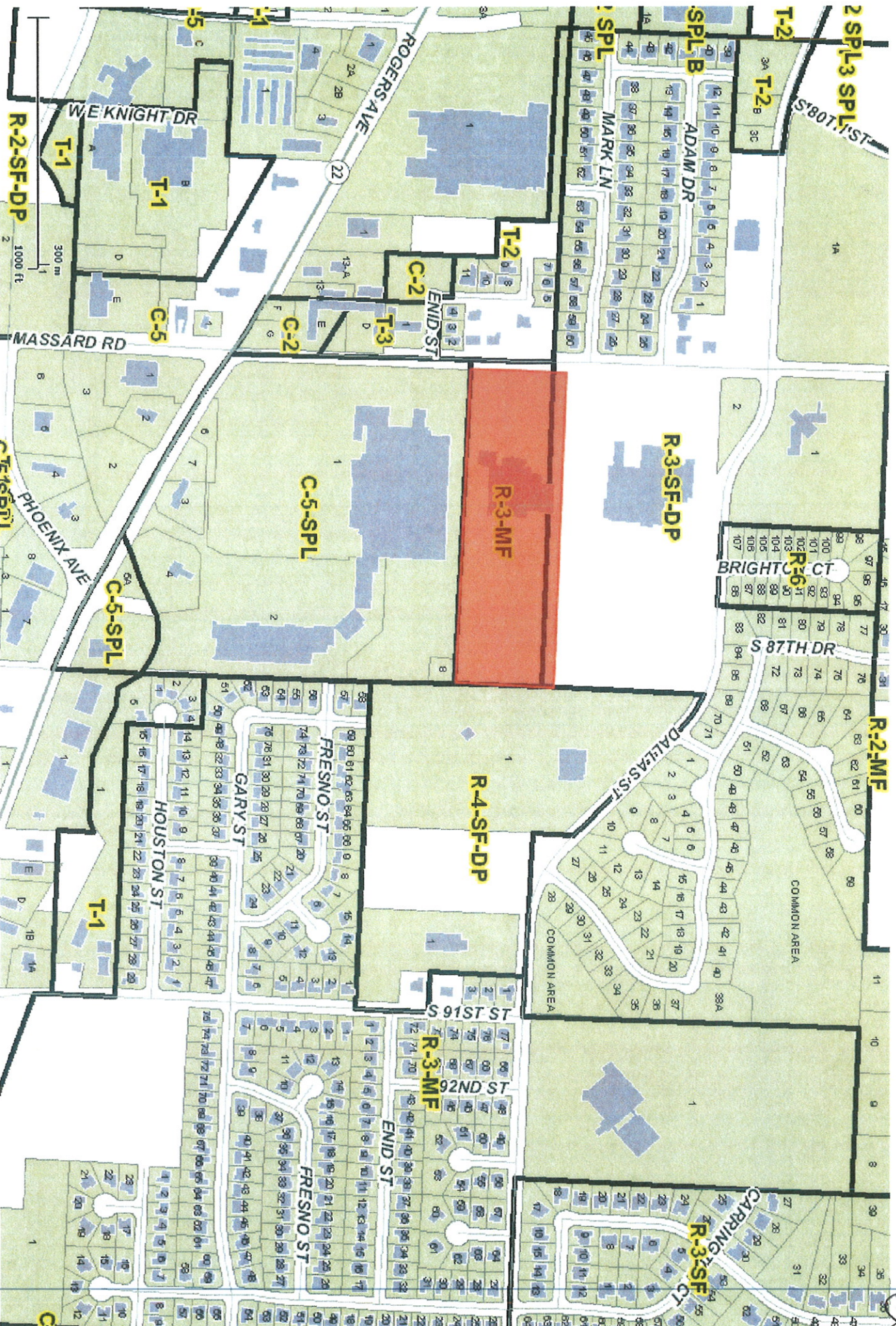
Or

Michael G. Johnson
Agent

8 E

Conditional Use #9-4-13: Amend Conditional Use #2-1-13

3201 Massard Road



907 South 21st
Fort Smith, AR 72901
Architects • Planners
Interior Designers

907 South 21st
Fort Smith, AR 72901

3' x 3' Grated Inset
of Grate #21.25
#15.5 (30" RCP/Feet)
#18.0 (Flow of Box)
#15.0 (25" RCP/Southwest)

PROVED

36

Memo

To: City Planning Commission

From: Planning Staff

Date: April 4, 2013

Subject: Appeal of Administrative Determination – Unified Development Ordinance –
Section 27-704-4 (C)

The Planning Department received an appeal from Mr. Troy Gaston on behalf of RAM Outdoor Advertising. According to the UDO, any person not in agreement with the decision made by the Director may appeal the decision within thirty (30) days to the Planning Commission. The appeal concerns the interpretation of Section 27-704-4(C) of the Unified Development Ordinance regarding outdoor advertising signs.

Enclosed are copies of the letter requesting the appeal from Mr. Gaston as well as the response from Mr. Wally Bailey.

Irrespective of the appeal concerning the language of the ordinance, we contend the proposed sign at 5700 Rogers Avenue is not allowed. There are already four (4) signs on the same side of the street and the proposed sign is within 1,000 feet of an existing off site sign.

We have enclosed a map showing the existing and proposed signs and information from the 2001 ordinance amendments.

If you have any questions please do not hesitate to ask.

QA

WALTERS, GASTON, ALLISON & PARKER

Attorneys at Law

Highway 10 Spur West

1405 W. Center, 3rd FL

Greenwood, AR 72936

E-mail: WaltLaw@waltlaw.net

**Also licensed in Oklahoma and Missouri*

Bill Walters

*Troy Gaston**

Derick Allison

Michael Harry

Wayland A. Parker, II

Telephone 479-996-2100

Fax 479-996-2565

Friday, March 1, 2013

Mr. Wally Bailey
623 Garrison Ave.
Room 331
Fort Smith, Arkansas 72901

Dear Mr. Bailey,

This letter serves to notify you pursuant to section 27-337-1 of the City of Fort Smith, Arkansas Unified Development Code ("Code") that RAM Outdoor Advertising ("RAM") appeals the denial of its applications for construction of new off-site advertising signs at 5700 and 7310 Rogers Avenue ("Applications")(attached as Exhibit No. 1) as set forth in the letter from Bill Striplin, City of Fort Smith, Planner, dated on or about February 7, 2013 ("Denial Letter")(attached as Exhibit No. 2). This appeal is filed with your office within 30 days of the Denial Letter as provided by § 27-337-1. Also, the appeal of fee of \$75 is enclosed with this letter.

RAM's Applications were improperly denied based on an incorrect application of section 27-404-4 of the Code. The Denial Letter specifically states the Applications "were denied due to there already [*sic*] being 4 or more offsite advertising signs within a mile at those locations. (see section 27-704-4(c))." RAM contends that the alleged basis for the Denial Letter is in contravention of the plain language of the ordinance.

Section 27-404-4 states as follows:

No outdoor advertising sign structure of any size shall be permitted to be erected closer than one thousand (1,000) feet from an existing outdoor advertising sign structure which is larger than thirty-five (35) square feet in sign area. No more than four (4) outdoor advertising sign structures (over thirty-five (35) square feet in area) per statute mile are permitted. All measurements shall be made along a line parallel to the street and from the center of the closest support pole. (emphasis added)

9B

The ordinance specifically states that all measurements are to be made along a line parallel to the street and from the center of the closest support pole. This method of measurement necessarily excludes signs on the opposite side of the street. The plain meaning of the word "parallel" means "extending in the same direction, everywhere equidistant, and not meeting." MERRIAM-WEBSTER'S DICTIONARY (2013). Moreover, the express language of the ordinance itself limits the measurement to a single line from the center of the closest support pole. Given these parameters, it is clear that the statute mile measurement is necessarily limited to the same side of the street as the proposed outdoor advertising sign location. Otherwise, the measurement would then be made along multiple lines that are either perpendicular or diagonal to the street from the center of the closest support pole or from multiple parallel lines, which is prohibited by the express and plain language of the ordinance. Therefore, the Applications were incorrectly denied as there are not 4 outdoor advertising signs within a mile along a line parallel to the street measured from the center pole of the proposed locations.

To the extent the city contends that the "statute mile" measurement specified by the ordinance includes outdoor advertising signs on either side of the street from the proposed location in the Applications, RAM asserts that the ordinance as written is unconstitutionally vague. Specifically, the ordinance's language on the measurement of the statute mile is written in such a manner that people of common intelligence must necessarily guess at its meaning and differ as to whether it applies to outdoor advertising on the both sides of the street.

Accordingly, RAM respectfully requests that the Planning Commission reverse the decision as set forth in the Denial Letter and approve the Applications.

Pursuant to Sec. 27-337-1, please forward this notice of appeal to the Planning Commission, and please provide me with notice of the hearing on RAM's appeal of the Denial Letter (c) before the Planning Commission at your earliest convenience.

Sincerely,



Troy Gaston

TG:dd

cc: Craig Roberts

9C



March 15, 2013

Mr. Troy Gaston
Walters, Gaston, Allison & Parker
Highway 10 Spur West
1405 W. Center, 3rd Floor
Greenwood, AR 72936

Re: Appeal Letter Dated March 1, 2013

Dear Mr. Gaston:

This letter acknowledges receipt of your letter of March 1, 2013, purporting to provide notice of an appeal pursuant to Section 27-337-1 of the Fort Smith Municipal Code. The appeal purports to be from the administrative action of the City of Fort Smith represented by the February 7, 2013, letter of Bill Striplin denying applications filed by RAM Outdoor Advertising for new signs at 5700 Rogers Avenue and 7310 Rogers Avenue based on the provisions of Fort Smith Municipal Code Section 27-704-4(c). We note that your letter incorrectly identifies the substantive Code provision as Section 27-404-4.

If allowed by the Planning Commission, the appeal will be on the agenda of and heard by the Planning Commission on April 9, 2013, at 5:30 p.m. in the Rose Room of the Creekmore Park Community Center located at 3001 South "M" Street. A Planning Commission study session will be held on Tuesday, April 2, 2013, at 11:30 a.m. at the same location.

The City of Fort Smith disagrees with the assertions of your letter of March 1, 2013, that the administrative decision is in contravention of the language of controlling substantive provision. The City of Fort Smith also disagrees with your assertion that the substantive provision is unconstitutionally vague.

With reference to the applications here, the controlling substantive provision is set forth in the second sentence of Fort Smith Municipal Code Section 27-404-4(c), which provides:

No more than four (4) outdoor advertising sign structures (over thirty-five (35) square feet in area) per statute mile are permitted.

The language is not limited to one side of the affected street. Likewise, the measurement provision of the third sentence of the Section does not restrict the application of the second sentence to one side of the street. The third sentence describing measurement provides that

623 Garrison Avenue
P.O. Box 1908
FORT SMITH, ARKANSAS 72902
(479) 784-2216
FAX (479) 784-2462

90

measurement of the statute mile is to be made "along a line parallel to the street and from the center of the closest support pole." Read together, the provision prohibits installation of a new sign in those situations where, within a statute mile along a street, there are at least four existing sign structures when the statute mile is measured along a line parallel to the street. There is nothing in that language which limits the application of the Section to one side of the street.

Moreover, the clear intent of the Section is established by the legislative history of the Section. The previous Fort Smith Code Section (27-360(e)) contained a distance limitation which was applicable "on the same side of the road as measured along a line parallel to such road" Language referring to "the same side of the road" was deleted from the current provision, and the second and third sentences of Section 27-404-4(c) were substituted. Additional legislative history, including a Interoffice Memo dated March 30, 2001, reflects an intentional adoption of the limit to four of the number of billboards which may exist along any street per statute mile (5,280 feet). The City of Fort Smith has consistently applied the limitation since the adoption of Ordinance No. 32-01 on June 5, 2001.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Wally Bailey".

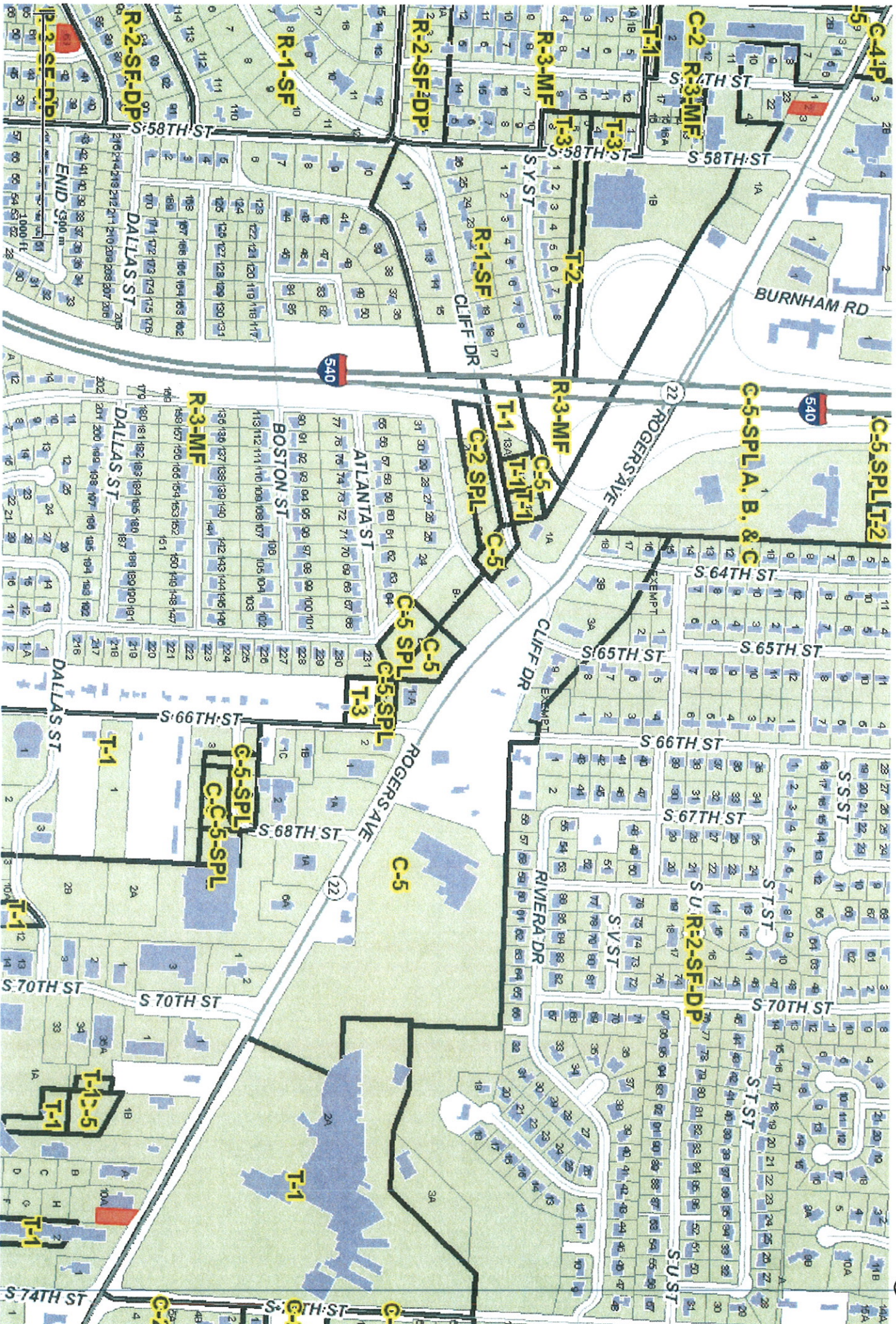
Wally Bailey
Director of Development
Services

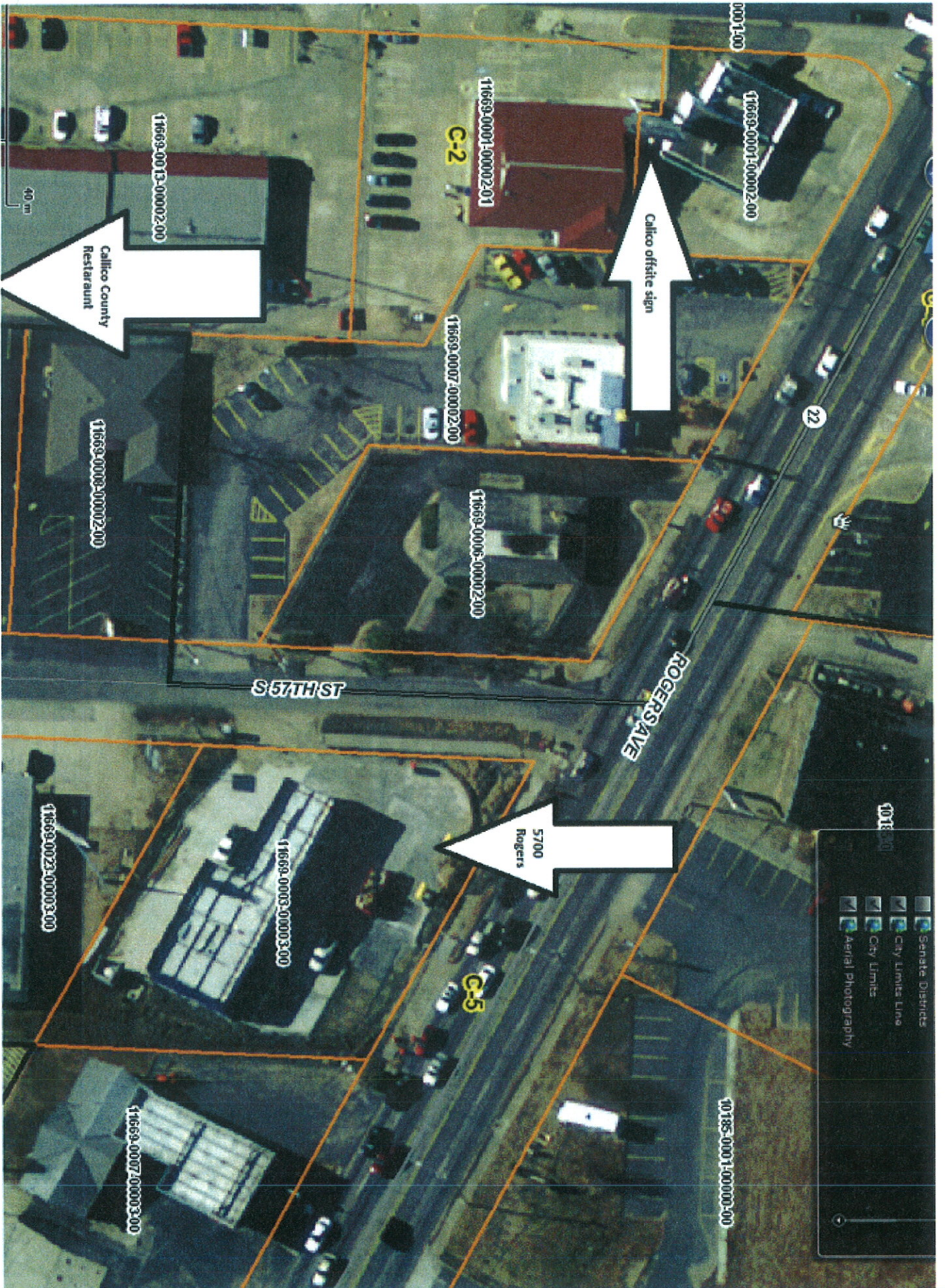
WB/lp

9E

Appeal to the installation of 2 billboards

5700 & 7310 Rogers Avenue





H6

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Variance #14-4-13 - A request by Michael Johnson, agent, for Board of Zoning Adjustment consideration of a zoning variance request from 200' to 45' and 125' minimum separation between adjacent driveways at 3201 Massard Road (Companion to item #)

LOT LOCATION AND SIZE

The subject property is on the east side of Massard Road, just north of the Wal-Mart Super Center. The tract contains an area of 12 acres with approximately 350 feet of street frontage along Massard Road.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary

10A

schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 40 feet (1+1)
Maximum Density – 20 Dwelling Units/Acre	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Side/Rear adjacent to RS district/development – 30 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Single Family-Duplex Medium/High Density (RSD-3) and is developed Chaffin Junior High School.

The area to the east is zoned Residential Single Family-Duplex High Density (RSD-4) and is developed as Fort Smith Boys & Girls Club.

The area to the south is zoned Commercial Heavy (C-5) and is developed as the Wal-Mart Super Center and various other retail businesses.

The area to the west is zoned Transitional (T) and is developed as a fire station and single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Massard Road as Major Arterial.

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Public Institutional. This classification is to provide for needed community services of both a public and quasi-public nature. Approval of the zone change will not conflict with the goals and objectives of the Master Land Use Plan.

REQUESTED VARIANCE

An approved variance will allow a 125' separation instead of 200' between a new driveway and an existing driveway on school property along with a 45' separation instead of 200' between two existing driveways on the school property located on Massard Road.

APPLICANT HARDSHIP

The applicant states that the school property has a narrow street frontage of approximately 350' as compared to the property depth of more than 1,500'. Entry into the site is accessible only from Massard Road. The existing driveway that was to be removed with the previous Variance approved on January 8, 2013 is being requested to remain as a one lane "entry only" driveway. The school is concerned that eliminating the subject driveway will create a hardship for school personnel and visitors because they would have to navigate the entire new driveway.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held Thursday, March 14, 2013 at 3201 Massard Road. No surrounding property owners attended the meeting.

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

SW NW NE & N/2 N/2 SW/NE SEC. 30-8-31

Address of property 3201 MASSARD ROAD, Existing or Proposed

Zoning Classification RM 3, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

FROM

TO

- | | | | |
|--|---|--|----------------------------------------------------------|
| | - | | Front Yard Setback or Minimum Distance from Right-of-Way |
| | - | | Exterior Side Yard Setback |
| | - | | Interior Side Yard Setback |
| | - | | Rear Yard Setback |
| | - | | Maximum Height of Structure |
| | - | | Minimum Distance Between Structures on the Same Lot |
| | - | | Minimum Lot Area (Square Feet) |
| | - | | Minimum Lot Frontage |
| | - | | Maximum Size of a Sign |

200 FT - ^{45 FT}125 FT DRIVEWAY SEPARATION, Other: U.D.O. 27-603-2 & TABLE 27-603-1B

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 26th day of FEBRUARY, 2013.

~~Owner~~ or Agent Name (please print)
Michael G. Johnson, AIA
Architecture Plus, Inc.
907 South 21st Street
Fort Smith, AR 72901

~~Owner~~ or Agent Phone Number
479-783-8395

~~Owner~~ or Agent Mailing Address
Michael G. Johnson, AIA
Architecture Plus, Inc.
907 South 21st Street
Fort Smith, AR 72901

Signed:

~~Owner~~

or

Michael G. Johnson
Agent

Variance # _____

10E

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u> ✓ </u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u> ✓ </u>	Is this variance needed because of previous actions taken by a prior owner?
<u> ✓ </u>	<u> </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u> ✓ </u>	<u> </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u> ✓ </u>	Is the lot of an odd or unusual shape?
<u> </u>	<u> ✓ </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> ✓ </u>	<u> </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u> </u>	<u> ✓ </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u> ✓ </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u> ✓ </u>	Is the lot developed with structures in violation of current zoning requirements?
<u> </u>	<u> ✓ </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

THE SCHOOL PROPERTY HAS NARROW STREET FRONTAGE OF APPROXIMATELY 350' AS COMPARED TO MORE THAN 1500' OF DEPTH. VEHICULAR ACCESS ONLY FROM THE STREET FRONTAGE OF MASSARD ROAD.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

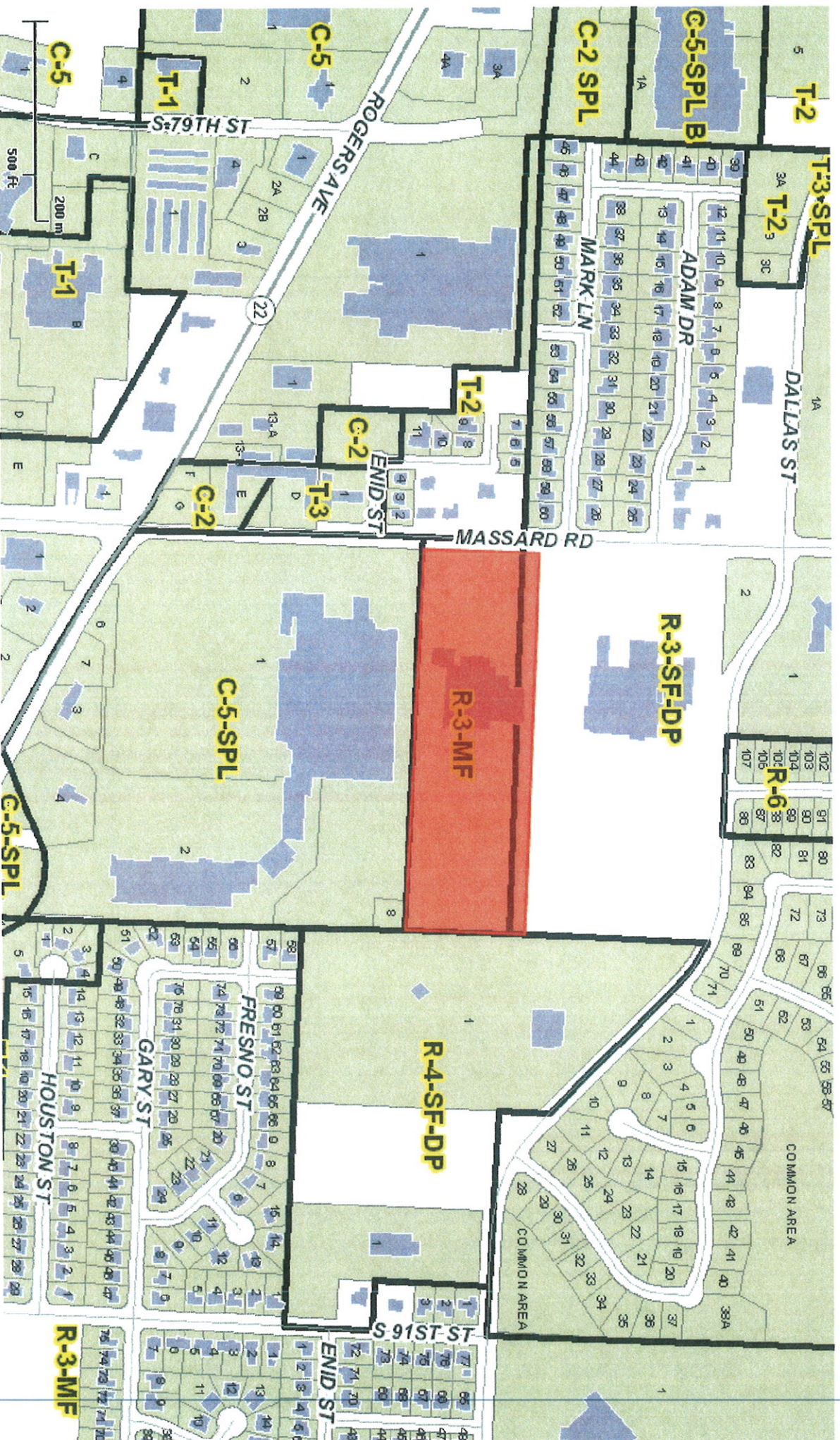
TO ALLOW BETTER ENTRY & EXIT INTO THE EXISTING PARKING LOT, THE EXISTING DRIVE, THAT WAS REMOVED WITH A DRIVE VARIANCE APPROVED JAN. 8, 2013, IS BEING REQUESTED TO REMAIN AS A ONE LANE "ENTRY" ONLY.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

N.A.

Variance #14-4-13: From 200' to 45' & 125'
driveway separation (UDO, Section 27-603-2 &
Table 27-603-1B)

3201 Massard Road

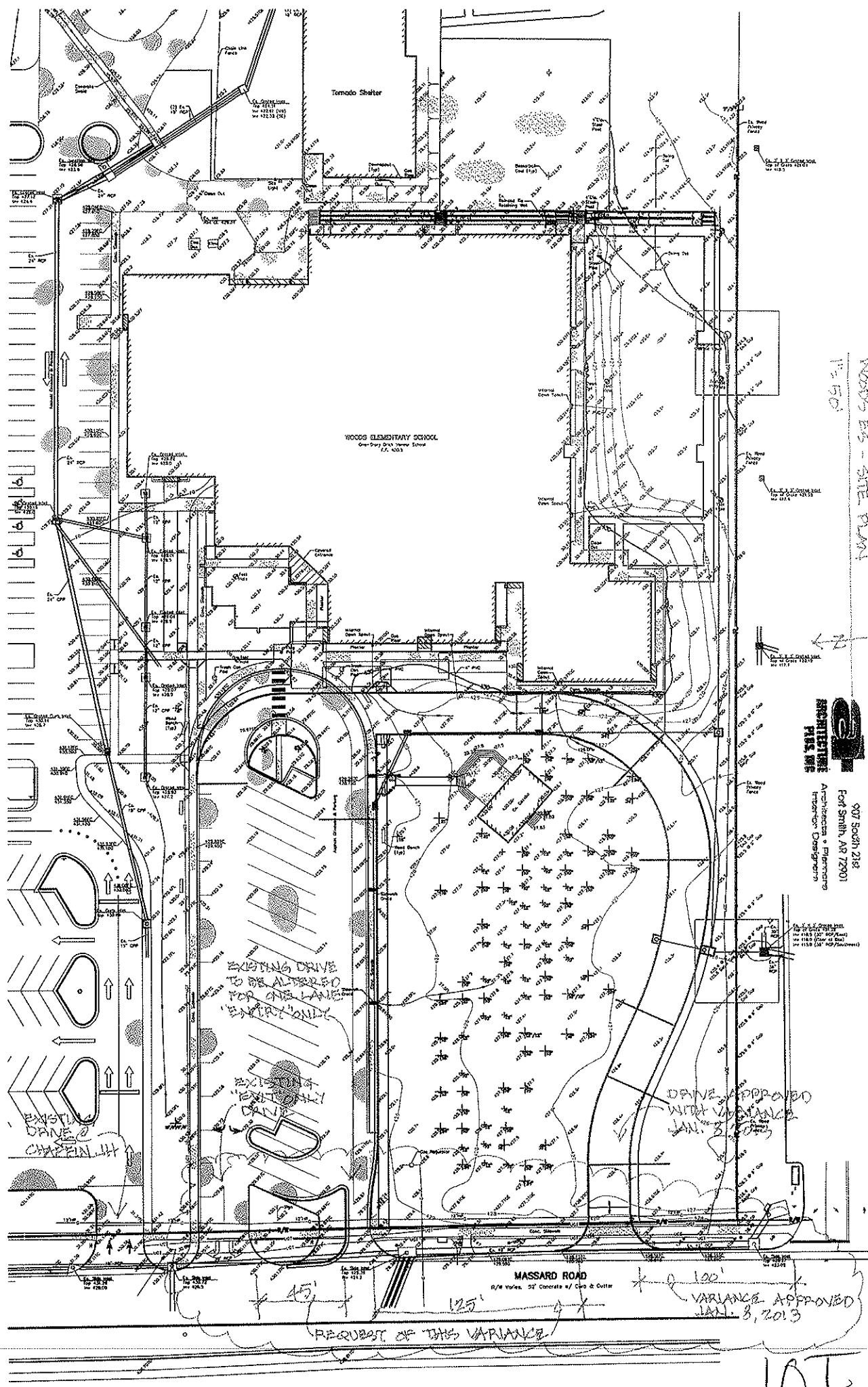


HO

WOODS BUS - SITE PLAN
1/2" = 50'



907 South 21st
Fort Smith, AR 72901
ARCHITECTURE
FIRM, INC.
Architects & Planners
Interior Designers



107



Rd., Fort Smith, AR 72903, USA

Google earth

feet
meters

800
200



Google earth

Memo

To: City Planning Commission

From: Planning Staff

Date: March 26, 2013

Re: Variance #13-4-13 - A request by Alvin Bradley, owner, for Board of Zoning Adjustment consideration of a zoning variance request from 25' to 7' front yard setback at 5109 Lovett Lane

LOT LOCATION AND SIZE

The subject property is on the north side of Lovett Lane just east of North 50th Street. The tract contains an area of 0.25 acres with approximately 80 feet of street frontage along Lovett Lane.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

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Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

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11A

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 40 feet (1+1)
Maximum Density – 20 Dwelling Units/Acre	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Side/Rear adjacent to RS district/development – 30 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Multifamily Medium Density (RM-3) and is undeveloped.

The areas to the east, south and west are all zoned Residential Multifamily Medium Density (RM-3) and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Lovett Lane as a Local Road.

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance

REQUESTED VARIANCE

The applicant would like to add a carport to the front of his home. The carport would be constructed of wood to resemble the house.

APPLICANT HARDSHIP

The applicant has purchased a new vehicle and would like to protect it from the weather.

STAFF COMMENTS AND RECOMMENDATIONS

The applicant submitted a signed sheet from his neighbors indicating there were no objections to the proposed project.

There are five additional carports in the area. Please see the attached photos of the existing carports.

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the

HB

granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

Var #13-4-13

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 5109 LOUERY LANE, Existing or Proposed

Zoning Classification RM-3, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

<u>FROM</u>		<u>TO</u>	
<u>25'</u>	-	<u>7'</u>	Front Yard Setback or Minimum Distance from Right-of-Way
_____	-	_____	Exterior Side Yard Setback
_____	-	_____	Interior Side Yard Setback
_____	-	_____	Rear Yard Setback
_____	-	_____	Maximum Height of Structure
_____	-	_____	Minimum Distance Between Structures on the Same Lot
_____	-	_____	Minimum Lot Area (Square Feet)
_____	-	_____	Minimum Lot Frontage
_____	-	_____	Maximum Size of a Sign
_____	-	_____	Other: _____

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

110

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Alvin Bradley
Owner or Agent Name (please print)

479-782-5902
Owner or Agent Phone Number

5109 Lovett Lane
Owner or Agent Mailing Address

Signed:

Alvin Bradley
Owner
or

Agent



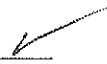








Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
_____	_____ 	Is this variance needed because of previous actions taken by yourself?
_____	_____ 	Is this variance needed because of previous actions taken by a prior owner?
_____ 	_____	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
_____	_____ 	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
_____	_____ 	Is the lot of an odd or unusual shape?
_____	_____ 	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
_____	_____ 	Does the lot contain required easements other than those that might be located on its perimeter?
_____	_____ 	Is any part of the lot in a flood plain or flood way?
_____	_____ 	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
_____	_____ 	Is the lot developed with structures in violation of current zoning requirements?
_____	_____ 	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

11F

Explanation of question #4 (if applicable)

To Need of a Cae Port - Just
Bought a new Cae, Needs to be
Protected From weather, Hail etc -
Cae-Port will be wood's nature to match
the House

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

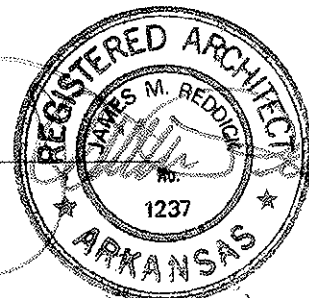
3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Variance #13-4-13: From 25' to 7' front yard

5109 Lovett Lane



LOVETT LANE



03.05.12

115

Existing Carports in the area

5109 Lovett Lane

C-5





Memo

To: City Planning Commission

From: Planning Staff

Date: March 27, 2013

Re: Variance #15-4-13 - A request by Bart Petray, agent for Sally Parker, for Board of Zoning Adjustment consideration of a zoning variance request from 25' to 15' front yard setback at 5610 Enid Street

LOT LOCATION AND SIZE

The subject property is on the south west corner of the intersection of Enid Street and South 57th Street. The tract contains an area of 0.23 acres with approximately 113 feet of street frontage along Enid Street and approximately 116 feet of street frontage along South 57th Street.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Medium/High Density (RSD-3).

Characteristics of this zone are as follows:

Purpose:

To provide for medium-to-high density, compact single family detached and duplex development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single family-duplex districts and the multifamily or commercial districts. RSD-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery

12A

schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet
Maximum Density – 6.7 Dwelling Units/Acre
Minimum Lot Width at Building Line – 60 feet
Minimum Street Frontage – 20 feet
Front Yard Setback - 25 feet
Side Yard on Street Side of Corner Lot - 25 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 60%

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Residential Single Family - Low Density (RSD-2) and is developed as single family residences.

The areas to the east, south and west are all zoned Residential Single Family – Duplex Medium/High Density (RSD-3) and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies both Enid Street and South 57th Street as Local Roads.

LAND USE PLAN COMPLIANCE

The *Unified Development Ordinance* currently classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values. Approval of the variance will not conflict with the goals and objectives of the Unified Development Ordinance

REQUESTED VARIANCE

The applicant would like to add a cover over an existing patio to the side of the house. The cover would be constructed of wood to resemble the house.

APPLICANT HARDSHIP

The applicant states no hardship other than without the cover the use of the patio will be greatly restricted with the addition of the cover.

STAFF COMMENTS AND RECOMMENDATIONS

In staff's opinion, the addition of the cover over the existing patio will have not have any adverse impacts on setback encroachment. If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

12B

12C

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Lot 63 Hardscrabble Way, an Addition to the City of Fort Smith, Sebastian County, Arkansas.

Address of property 5610 South Enid Street, Existing or Proposed

Zoning Classification RSD-3, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

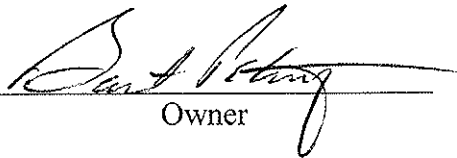
<u>FROM</u>	<u>TO</u>	
<u>25'</u>	<u>15'</u>	Front Yard Setback or Minimum Distance from Right-of-Way
_____	_____	Exterior Side Yard Setback
_____	_____	Interior Side Yard Setback
_____	_____	Rear Yard Setback
_____	_____	Maximum Height of Structure
_____	_____	Minimum Distance Between Structures on the Same Lot
_____	_____	Minimum Lot Area (Square Feet)
_____	_____	Minimum Lot Frontage
_____	_____	Maximum Size of a Sign
_____	_____	Other: _____

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

BART PERRY
Owner or Agent Name (please print)


Owner
or

979-474-7914
Owner or Agent Phone Number

Agent

320 O'BRYAN Lane, Van Buren, 72956
Owner or Agent Mailing Address

Variance # _____

12E

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

Yes

No

- | | | |
|----------------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u> </u> | <u> X </u> | Is this variance needed because of previous actions taken by yourself? |
| <u> </u> | <u> X </u> | Is this variance needed because of previous actions taken by a prior owner? |
| <u> X </u> | <u> </u> | A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance? |
| <u> X </u> | <u> </u> | Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page. |
| <u> </u> | <u> X </u> | Is the lot of an odd or unusual shape? |
| <u> </u> | <u> X </u> | Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)? |
| <u> </u> | <u> X </u> | Does the lot contain required easements other than those that might be located on its perimeter? |
| <u> </u> | <u> X </u> | Is any part of the lot in a flood plain or flood way? |
| <u> </u> | <u> X </u> | Is the lot smaller than minimum lot area or minimum frontage for its zoning classification? |
| <u> </u> | <u> X </u> | Is the lot developed with structures in violation of current zoning requirements? |
| <u> </u> | <u> X </u> | Does the lot front any street classified as an arterial or collector on the Master Street Plan? |

12F

Explanation of question #4 (if applicable)

The house has an existing semi-circular concrete patio adjacent to the East side of the house, which encroaches the 25' ~~Front~~ ^{Yard} setback. The owner wishes to construct a cover over the patio to render it more usable during all times of the year.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

No undue hardship will result but use of the patio will be greatly restricted.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

None

Variance #15-4-13: From 25' to 15' front yard setback

5610 Enid Street



121

121